A CATECHISM OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA

WITH SKETCHES OF THE CONSTITUTIONAL AND RATIFYING CONVENTIONS; AND VALUABLE PERSONAL, HISTORICAL, POLITICAL AND LEGAL INFORMATION, CRITICISM AND INTERPRETATION

ADAPTED TO STUDENTS AND STATESMEN

BY

JOHN W. OVERALL

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TO MY BROTHER

GIBSON Y. OVERALL

OF ALABAMA

EMINENT AT THE BAR

AND DEVOTED TO THE PRINCIPLES

OF THE CONSTITUTION

THIS VOLUME IS AFFECTIONATELY DEDICATED

BY THE AUTHOR

PRELIMINARY.

PERIL OR SAFETY—WHICH SHALL IT BE?

Napoleon the Third proclaimed, "The Empire is Peace." The empire was war until it went down in the red sunset of Sedan.

Melville W. Fuller, on the eve of his nomination to the Chief-Justiceship of the United States, said, in his eulogy on Stephen A. Douglas: "The Republic is Opportunity." He ought to have said that this extended confederation of States was meant to be Opportunity.

In the convention which framed the Constitution of the United States, Charles Pinckney declared, "In the United States there is but one order." Is that true to-day? Is there not the growing aristocracy of wealth?

In the same convention Alexander Hamilton declared that, "As long as office is open to all men and no constitutional rank is established, it is true republicanism." Is that true to-day? Is genius or moral merit or political knowledge rewarded by even so slight a thing as acknowledgment? Is it not a crime to be poor, however gifted? James Madison in the "Federalist" wrote:

"Who are to be the objects of the popular choice? Every citizen whose merits may recommend him to the esteem and confidence of his country. No qualification of wealth or civil profession is permitted to fetter the judgment or disappoint the inclination of the people." Is that true to-day? Are not nominations bought before election in the name of assessment?

Are the questions of Thomas Jefferson now asked of an aspirant to public office: "Is he honest? Is he capable? Is he faithful to the Constitution?" The only question asked as to a presidential candidate, or an aspirant to such candidacy, is this one: "Is he available?" Or, in case of an applicant for appointment: "What is his influence in his city or county or State?" Is suffrage not a farce played by demagogues? Are not ignorant voters the puppets of opulent or crafty and ambitious office-seekers? Does not wealth often dominate the Senate of the United States, and intrepid mediocrity dominate often the House of Representatives? Do not Presidents bid for second terms and manipulate so-called "national conventions"?

Is not worse than Walpolean corruption winked at in high places everywhere? Is not the success of party everything, the State a second consideration? Is not monopoly supreme in many of the

States of the Union? Is the whole country not changing from an exotical human inundation and a growing tendency to European centralism?

Instead of the splendid axiom of a late writer: "Worms to the dust; eagles to the empyrean," is not the opposite too true: Worms to the front; vultures to the empyrean? In the gradual focalization of power in Washington, and consequent disregard of the limitations of the Constitution and the reserved rights of the several States, is not the spectre of the Man on Horseback discerned in the twilight of distance? Is not his coming ultimately certain, unless there shall be social and political reform? In the insweeping, unrestricted tide of foreign immigrants of monarchical habits of thought, diverse tongues, differing religions, and unassimilating tendencies, is there not anarchic danger? Is there not an ignorant use of the ballot by a growing African-American population, and a terrible prospective racial collision which must end in the extinction of one race or the other, or the ruin of both the white and the black races by hybridization? Is not the Republic Peril?

WHAT IS THE ROAD TO SAFETY?

The author has endeavored to reblaze the road to safety in the pages which follow. Our fathers

studied the principles of the Declaration of Independence and the letter and spirit of the Constitution of the United States. In the rush of commerce and trade, the selfish desire for plutocratic millions, and the mad struggle for political power and plunder, good government is neglected, and the great charters of freedom relegated to the dust of the libraries. We must become students and patriots again, or the historian will chronicle the greatest suicide of the centuries—the destruction of the last republic that promised to federate the world.

Authors and statesmen who understand the genius and practical workings of our institutions should make haste to correct a growing fallacy which has for its nourishment political ignorance. The fallacy is that the United States have outgrown the Constitution, which needs important revision.

Although more than a century has elapsed since its ratification by the States, the people have not grown up to the principles of the Constitution. The minority have governed, and still govern. This is chiefly due to the tremendous influx of new peoples who are in everything diverse. They need education in the great school of our fathers, who were students of the histories of all of the republics and nations of the earth.

A CATECHISM OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

What is the baptismal name of our States-Union?

The United States of America.

Whence came the Union and the name?

From the temporary confederation of the Colonies for self-defence within the British empire. The United Colonies led to an independent Union which was thereafter known as the United States of America.

The Colonial War was commenced, and prosecuted a year with the hope of "redressing grievances." George Washington was commissioned commander-in-chief in the name of all the Colonies severally recited. When Congress had issued to the world the Declaration of Independence, the Colonies rose to the dignity of sovereign States. "We, therefore, the representatives of the United

States of America in General Congress assembled," are the concluding words of that creative instrument. The official oath was: "I acknowledge the thirteen United States, namely, New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign and independent States."

Did a compact follow the Declaration?

The Articles of Confederation succeeded. They bore the caption of "Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia." Article I. declares: "The style of this Confederacy shall be the United States of America." Article II.: "Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled." Article III. provides that, "The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of

their liberties, and their mutual and general welfare," etc.

Was this the genesis of a constitutional Union of the States?

It was. The Articles of Confederation were formulated by Congress, July 9, 1778, and ratified between the thirteen States, March 1, 1781, and the War of the Revolution was fought to the finish under them. The treaty of peace with Great Britain, as well as the treaty with France, our ally, was made with the United States as separate republics. Each State was named.

The treaty of peace with Great Britain recited that, "His Britannic Majesty acknowledges the said United States, namely, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, independent, and sovereign States." John Jay drew the treaty.

What was the policy of Congress before and after confederation?

Congress having been the United Colonies, and afterward the thirteen United States in council, urged the ratification of the Articles. Before they were ratified Congress resolved, but never

legislated. Under them Congress enacted, not resolved. Each State had one vote, cast by delegates annually chosen by the several legislatures. Societies of men constituting a body politic voted, not men.

The word "Congress" was first suggested by Great Britain, 1695. It was proposed to unite the Colonies for general defence with a general Congress. The Colonies declined.

What is to be understood by the foregoing?

The Colonists and the people of the thirteen States were in favor of a distribution, not a concentration, of power. New Hampshire, on the 15th of June, 1776, voted that the thirteen United Colonies ought to be declared "a free and independent State." This consolidation movement was repudiated by the Congress on the Fourth of July following. The Declaration of Independence did not say that these Colonies are and of right ought to be a free and independent State, but "free and independent States."

Prior to that great State paper being signed, several States had withdrawn from Great Britain and become separate republics. The Colonists were, from the historic era of settlement, decentralists in opinion and in act. Such are the facts of history.

What was the next move to help along constitutional government, in 1786?

Five States met in convention at Annapolis, Md.; namely, New York, New Jersey, Pennsylvania, Delaware, and Maryland. An address written by Alexander Hamilton of New York was issued that "a convention of all the States should meet at Philadelphia, the second Monday of May, 1787, to consider measures to render the Constitution of the Federal government adequate to the exigencies of the Union." Virginia, on motion of James Madison, agreed to send delegates, but with the understanding that the proposed measures should be confirmed by the several States.

Congress, in accord with Virginia and other States, declared that a convention should be held at Philadelphia, "for the sole and express purpose of revising the Articles of Confederation, and report to that body and to the State legislatures such alterations and provisions as will make the Federal Constitution adequate to the exigencies of the Union."

Such report was to be agreed to by Congress, and confirmed by the States.

What is a Federal Constitution?

A compact between the States. The last in-

strument framed was not called a Federal Constitution, but the Constitution of the United States of America.

Revision, or creation, or selection?

In the summer of 1782, Alexander Hamilton, through Gen. Philip Schuyler, whose daughter he had married, proposed to the legislature of New York that each State should proceed "to adopt the measure of assembling a general convention of the States, specially authorized to revise and amend the Articles of Confederation." Deputies from every State, except Rhode Island, appointed by the legislatures, began work at Philadelphia, May 25, 1787, and finished their labors on the 17th of September following. The body was called in the "Journal" in which the proceedings were recorded: "The Federal convention."

There is a significant first entry, viz.: "In virtue of their appointments from their *respective States* sundry deputies to the Federal convention appeared, but a *majority of States* not being represented," an adjournment took place. Hereafter special mention is made of the personality of the States in the concluding words of the new Constitution.

The members of the convention sat with closed doors, and with agreed secrecy, against which the

people demurred, and much bitter feeling followed, as it was said they were framing the constitution of a strong or centralized government. Two deputies from New York, Yates and Lansing, went home, because they agreed that the convention were not revising the Articles of Confederation, but creating a new organic law. Hamilton remained. The convention did not so much revise as select and create. They acted generally on the advice of George Reed of Delaware, who said: "The confederation was founded on temporary principles; to patch it up, would be like putting new cloth on an old garment."

The deputies disregarded the resolution of the Annapolis convention and the act of Congress, and commenced *de novo.*

Can you give examples of selection?

Yes. A perusal of the Articles of Confederation shows that the convention made liberal use of their sections. The "Senate" is not a creation, save as to the compromise between the large and small States. The name had been used in New Hampshire, Massachusetts, New York, Maryland, North Carolina, South Carolina, and Virginia. New Hampshire, Massachusetts, South Carolina, Pennsylvania, and Vermont called the popular branch of their legislatures the "House of Representa-

tives." Senatorial rotation was taken from New York, Pennsylvania, Delaware, and Virginia. To New Hampshire and Massachusetts is due the provision that all bills for appropriations of money shall originate in the House. The President's message is derived from New York, his oath from Pennsylvania. The method of impeachment came from New Hampshire, Vermont, Massachusetts, New York, Pennsylvania, Delaware, Virginia, and South Carolina. The veto of the President is to be credited to the Massachusetts Constitution of 1780. The filling of vacancies by the President in the recess of Congress was furnished by North Carolina. The names "president" and "vice-president" came from "governor" and "lieutenant-governor" of the several Colonies. In fact, New Hampshire, Pennsylvania, Delaware, and South Carolina had used the name "president," preferring it to "governor." Inter-State citizenship was derived from the New England confederation of 1643. So, several other provisions of the Constitution of 1787 might be cited as being derived from the organic laws of the Colonies. But the foregoing are enough to show that the convention dealt largely in selection from the wisdom of the Colonies and the emancipated States. Even the Bill of Rights was substantially taken from State constitutions.

What was the first work of the convention?

Pennsylvania proposed George Washington should be President; Dr. Franklin was to have made the motion, but a storm of rain prevented him. Robert Morris was selected to act in his place; and John Rutledge, on behalf of South Carolina, seconded the motion of Pennsylvania.

Give the best description of the President.

General Washington is described by one of his biographers, Aaron Bancroft, who modelled his work after Marshall's "Life," "as exactly six feet in height; he appeared taller, as his shoulders rose a little higher than the true proportions. His eyes were of a gray, and his hair of a dark brown color. His complexion was light, and his countenance serene and thoughtful. His limbs were well formed, and indicated strength." He had long and muscular arms, and General Lafayette said his hands were the largest he had ever seen on a human being. Washington was fifty-five at this time.

Who was the youngest, and who the oldest, deputy in the convention?

Nicholas Gilman of New Hampshire was the youngest, being twenty-five; and Dr. Franklin of Pennsylvania was the oldest, being eighty-one.

One-third of the number were under forty years, and but seven of the fifty-five deputies exceeded sixty years.

Name the plans of government submitted to the convention.

Edmund Randolph, deputy from Virginia, offered a series of fifteen resolutions on the 29th of May, 1787, which looked to a "national" system of government, executive, legislative, and judiciary. Charles Pinckney, deputy from South Carolina, submitted a mixed plan, as it has been called. Both plans were referred to the Committee of the Whole on the same day. On the 15th of June, 1787, William Patterson, deputy from New Jersey, offered a plan to amend, in some particulars, the Articles of Confederation, but preserving the Federal features of the system. This, also, was referred to the Committee of the Whole.

Judge Joseph R. Flanders of New York, in "A Sketch of Political Parties and their Principles," thus summarizes the Hamiltonian plan: "On the 18th of June, 1787, Alexander Hamilton of New York made a speech in the convention, in which he read a paper expressing his ideas of a suitable plan of government, the prominent features of which were: A President for life; a Senate for life; a lower House elected for three years; the

legislative branch to be called the legislature of the United States, with power to pass all laws whatsoever, subject to the negative of the life executive, whose veto was to be absolute; and the governor of each State to be appointed by the general government, and to have the absolute power of vetoing all laws passed by the State legislature.

"In his speech he said: 'We must establish a general and national government completely sovereign, and annihilate all State distinctions and operations. . . . I believe the British government forms the best model the world ever produced. . . . All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. Give, therefore, to the first class a distinct, permanent share in the government. . . . See the excellence of the British executive. . . . Nothing short of such an executive can be efficient. . . . I would give them [the two legislative branches] the unlimited power of passing all laws without exception [like the British parliament.]'"

National or Federal?

The summarist continues: "In the discussion, in the Committee of the Whole, of the several

plans which had been presented, the prevailing sentiment seemed to favor a 'national' system. Mr. Patterson's plan, looking to a continuance of a 'Federal' system, was rejected in committee, and Mr. Randolph's was approved. It bristled all through with the word 'national,' and was pregnant with centralization. The friends of a Federal system, of a union and government of States, and not of consolidated peoples, took the alarm, warned the States of their danger, advised them to look to their safety, called upon them to fill up their delegations with friends of liberty, and effectually aroused public sentiment; so that when the great battle came on, in the convention, for rights against power, they were strong enough to conquer, and they did conquer.

"On the 20th of June, 1787, the question came up in the convention on Mr. Randolph's plan. Oliver Ellsworth of Connecticut promptly moved to amend the first resolution by striking out the words 'national government,' and inserting in lieu thereof, the words 'government of the United States.' So strongly had the friends of the States mustered, and so powerful was public sentiment, that the nationalists made no opposition, and the amendment was unanimously carried. This settled the question; the victory was won, and liberty was saved. Then right on, day after day, the

word 'national' was stricken out wherever it occurred, and some other form of expression, indicating the Federal origin and character of the system, was substituted."

Instead of "national government," the plural United States is used, and in other instances the words "the Union" and "this Union" occur in the Constitution. Both were adopted as republican substitutes. They were opposed by the "strong government men," as they were called at that day, and who had made a united effort to secure a majority of deputies from the thirteen States.

Who was Edmund Randolph?

He was an eminent lawyer of Virginia, and warmly espoused the war for independence. Having filled several honorable offices of the Commonwealth, he was elected to Congress in 1779, and held his seat until 1782. In 1787 he was a member of the convention which framed the Constitution of the United States, voted against the adoption of the instrument, but in the Virginia convention urged its ratification. Mr. Randolph was chosen Governor of Virginia the succeeding year. In 1789 he was appointed Attorney-General of the United States, and in 1794 Secretary of State, which he resigned the year following. He departed this life September 12, 1813.

Mr. Randolph had great command of language and a voice of exceeding oratorical music. To these were to be added fine manners, portliness of person, and handsome features. He was thirty-four when he sat in convention.

Who was Oliver Ellsworth?

A decentralist of Connecticut, and a deputy to the "Federal convention."

President Washington appointed him second Chief-Justice of the United States, and favored him as a successor in the presidential office. Mr. Ellsworth had been a member of the old Congress, and was a logical and convincing debater there and in the convention. He was cautious, self-possessed, retiring, but always independent in the expression of his opinions. He came to conclusions with great deliberation, and stood by them, but with gentlemanly tenacity. Although but forty-two, his rich political experience made him very influential among older members. His features were striking and agreeable, while the lower portion of his face denoted will power, and his head gave assurance of intellectuality.

Who was Charles Pinckney?

He was kinsman of Charles Cotesworth Pinckney, also a delegate from South Carolina to

the convention. His precocity was remarkable. Twenty-seven years was his age, and yet he spoke with such force and occasional eloquence that his elders gave his argument great attention. He participated in the debates on all important measures. Mr. Pinckney had served four years in the old Congress, was afterwards Governor of South Carolina, three times in the Senate of the United States, and Minister to Spain. He negotiated a treaty with Spain, in which that country renounced all right and title to the territory which the United States had purchased from France.

Who was William Patterson?

A learned lawyer of New Jersey, and Attorney-General for ten years, and deputy from that State to the "Federal convention." Subsequently he was a Senator of the United States when the Constitution went into operation, and Justice of the Supreme Court. His plan of government brought him into much prominence in the convention.

Who was Alexander Hamilton?

A native of St. Nevis, West Indies, born in 1756. He was a soldier of the Revolution, an accomplished jurist, an orator, fervid, logical, and

pathetic. He was but thirty years of age when in the convention, but exhibited wonderful maturity. Although in size the smallest man in the convention, he was often the largest in mental prowess.

New York had lost her vote by the defection of two of Hamilton's colleagues, yet he remained to help as he could the framers in their arduous labors.

He was appointed first Secretary of the Treasury by Washington, and ended his life in a duel with Aaron Burr. Of the eighty-odd numbers of the "Federalist," Hamilton wrote fifty-five, John Jay five, and Madison the rest. Curiously enough, biographers name as Hamilton's birthplace three islands, viz.: St. Kitt's, St. Croix, and St. Nevis, of the Lesser Antilles.

What was the vice of the Confederation?

The States ordained, during war, in the Articles of Confederation, which was the first Constitution of the United States, a "perpetual Union," which in peace made them restive. They had asserted and achieved their freedom, independence, and sovereignty. No amendment could be made to the Articles unless by the unanimous consent of the States. Bondage was unendurable. The Articles of Confederation, having superseded the

authority of Congress, had control over war and peace, yet exercised only advisory powers, being dependent on the States for executory coöperation.

The Articles did not provide for an executive or a judicial department. In civil matters, such as the collection of revenue, they were powerless as the States were powerful.

The Philadelphia convention proceeded to reform the vice of the Confederation by ordaining three coördinate departments of government, viz.: the legislative, executive, and judicial. Amendments were provided for by a vote of three-fourths of the States, whereas the Articles required, as before stated, unanimous consent.

What does the preamble mean by "a more perfect Union"?

It means that "perpetual Union" not having saved the Confederacy from the peril of dissolution, a more "perfect Union," based on mutual consent and compromise, would be the salvation of the States-Union, or the United States, as a grand confederation of equal and co-equal States, and both immediately and remotely "establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty."

What was the fallacious argument of Chief-Justice Chase?

In the celebrated case of Texas vs. White (7 Wall. 700), decided by the Supreme Court after the war, Chief-Justice Chase said:

"The Union of the States never was a purely artificial and arbitrary relation. . . . It received definite form and character and sanction by the Articles of Confederation. By these the Union was solemnly declared to be perpetual. And when these Articles were found to be inadequate to the exigencies of the country, the Constitution was ordained to form 'a more perfect Union.' It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble if a perpetual Union, made more perfect, is not? But the perpetuity and indissolubility of the Union by no means implies the loss of distinct and individual existence, or of the right of self-government by the States. . . . It may not be unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and maintenance of the national government. The Constitution in all its provisions looks to an indestructible Union, composed of indestructible States. When, therefore, Texas be-

came one of the United States she entered into an indissoluble relation. . . . There was no place for reconsideration or revocation except through revolution or through consent of the States. Considered, therefore, as transactions under the Constitution, the ordinance of secession adopted by the convention, and ratified by a majority of the citizens of Texas, was absolutely null, and utterly without operation in law. The obligations of the State as a member of the Union, and of every citizen of the State as a citizen of the United States, remained perfect and unimpaired. The State did not cease to be a State, nor her citizens to be citizens of the Union."—See also the cases of White vs. Hart (13 Wall. 646) and Keith vs. Clark (97 U. S. 451).

What were the comments of James Bryce in his "American Commonwealth"?

"As respects the argument that the Union established by the Constitution of 1788 must be perpetual, because it is declared to have been designed to make a previous perpetual Union more perfect, it may be remarked, as matter of history, that this previous Union [that resting on the Articles of Confederation] had not proved perpetual, but was, in fact, put an end to by the acceptance, in 1788, of the new Constitution by the nine States

who first ratified that instrument. After that ratification the Confederation was dead, and the States of North Carolina and Rhode Island, which for some months refused to come into the new Union, were clearly out of the old one, and stood alone in the world. May it not, then, be said that those who destroyed a Union purporting to be perpetual were thereafter estopped from holding it to have been perpetual, and from founding on the word 'perpetual' an argument against those who tried to upset the new Union in 1861, as the old one had been upset in 1788? The answer to this way of putting the point seems to be to admit that the proceedings of 1788 *were in fact* revolutionary. In ratifying their new Constitution in that year, the nine States broke through and flung away their previous compact, which purported to have been made forever. But they did so for the sake of forming a better and more enduring compact, and their extra-legal action was amply justified by the necessities of the case."—"American Commonwealth," vol. i., page 316.

Mr. James Bryce, Member of Parliament from Aberdeen, Scotland, in his two volumes, shows himself to be a born nationalist. In his just criticism of the Chase opinion, he failed to see that the Chief-Justice was as bitter against Jeffersonianism as old Cato was against Carthage. No

Chief-Justice has been so partisan and nationalistic.

What is meant by "We, the people"?

Originally it was intended that the preamble to the present Constitution should read: "We, the people of the States of New Hampshire [naming each of the thirteen States] . . . do ordain and establish this Constitution." That was regarded as tautological by Gouverneur Morris and others, as the names of each State are recited in Article I. immediately following. So the phrase, "We, the people of the United States," or, inverted, the States United, for specific purposes, was adopted. The absence of Rhode Island was another reason for omitting the names of the States. She might never ratify. The overture to a great production of the master's is, however, of inconsiderable moment compared with the body of the artistic work which follows. The preamble may be dismissed with the observation, that a State is a corporation, a constitution its charter, and the people the corporators. "We, the people of the United States," means "We, the people of the several States."

What did David Brearly say?

The Chief-Justice of New Jersey, the eminent

David Brearly, one of the number who signed the Constitution, said in the convention: "If thirteen sovereign and independent States are to be formed into a nation, the States as States must be abolished, and the whole must be thrown into a hotchpot; and when an equal division is made, there may be fairly an equality of representation. New Jersey will never confederate on the plan before the Committee. I would rather submit to a despot than such a fate."

What did James Madison say?

In the "Federalist" Madison declares that the parties to the United States Constitution are the people, "not as individuals composing one entire nation, but as composing the distinct and independent States." In the Virginia debates on ratification, Mr. Madison said: "Who are parties? The people; but not the people comprising one great body, but the people as comprising thirteen sovereignties."

Who was James Madison?

The fourth President of the United States was born in King George County, Virginia, March 5 [old style], 1751, and died at Montpelier, Orange County, June 28, 1836, at eighty-five years. The writer remembers the profound respect which

was paid by the whole country to the memory of the statesman.

Mr. Madison was sent to Princeton, where he was educated under the care of Dr. Witherspoon, the President, who told Jefferson that his pupil had never to his knowledge said or done an indiscreet thing in his whole collegiate residence.

The young Virginian was a hard student, and injured his health by allowing himself but three hours of twenty-four to sleep. He literally lived among his books. He was a member of the first Constitutional Convention of Virginia, and also that of 1829. He served in the Congress of 1780, and in the legislature of his own State. In the convention which framed the Constitution of the United States he was invaluable, constant in attendance, engaging often in debate, devising, suggesting, and creating. Like Hamilton, he was in mind far in advance of his years. He was the author of twenty-nine papers in the "Federalist," which assisted in the ratification of the Constitution, and of parts of the Bill of Rights.

Both Madison and Hamilton, by timely suggestions, assisted Washington in preparing the "Farewell Address." The last written advice of Madison was that "the Union of the States be cherished and perpetuated."

What did Hamilton say?

He called the States, "societies of men;" the Union, an association of States.

What did John Marshall say?

The great Chief-Justice said, in McCullough vs. Maryland (4 Wharton, 403): "It is true that they [the people] assemble in their several States, and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass." This was in 1819.

What was Story's idea?

In 1833 Justice Story wrote his "Commentaries on the Constitution." He argued in favor of so compounding; and Daniel Webster, in his splendid reply to Hayne, invoked the flag of the United States as the canopy of a people consolidated or compacted into a nation. The legacy of Story and Webster helped to bring on the unfortunate and terrible war between the States.

Is it proper to use the names "America" and "American citizens"?

It is not. History and geography repudiate "America." It is an invention of the consolida-

tionists. The Constitution calls our confederacy "The United States *of* America." Ours was the first United States of the Western Hemisphere, called North and South America. We are not American citizens, but citizens of the several States and of the United States. We are New Yorkers, Pennsylvanians, Marylanders, Virginians, North and South Carolinians, Georgians, etc., primarily.

Should the words "nation" and "national" be used when speaking of the United States?

By no means. The framers of the Constitution carefully avoided the words "nation" and "national." They desired to avoid the vice of the British government.

What distinguishes the United States from European nationalities?

The federative system. Judge J. Randolph Tucker of Virginia says that the United States are "democratic republican in government;" and, again, a "Federal government," that is, "one in whose organism States are factors, and through which States act with united powers as constituents."

What is a nation?

The word is an exotic. Its derivative, "national," is also foreign. Both have crept into our

political vocabulary. They can never be naturalized if the Constitution is patriotically observed. But that little pamphlet, which embodies the wisdom of our fathers, is seldom consulted, rarely studied by men in authority. Now for a direct answer to the foregoing question:

A nation is a sovereign body, having and knowing no limitations, with only one code of laws and a homogeneous population. These United States have forty-five State governments, thirteen of which possessed original sovereignty, and a general government as an agency. This general government, the name of which is the Government of the United States, being created by the States, is but an extension of their own powers severally, which doctrine was held by Jefferson, and can be and has been modified by amendments, ratified by the creators of the same. Three-fourths of the States can amend at any time the Constitution of the United States, which proves that the general government has no original sovereignty.

The government of the United States is not, as Mr. Lincoln said at Gettysburg, a "government of the people, by the people, and for the people." That presupposes but one government. The true doctrine is: The general government is a government of the States, by the States, and for the people of the States.

Careless or ignorant writers and speakers forget, or do not know, that the words "The United States" are defined in the Constitution as plural. "No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under *them*," is the language of the ninth section of the first article. "Treason against the United States shall consist only in levying war against *them*, or adhering to their enemies," is the language of the third section of the third article. "Treaties made, or which shall be made, under *their* authority," are the words of section 2, Article III. "The United States shall guarantee to every State in this *Union* a republican form of government, and shall protect *each* of *them* against invasion," is the phraseology of section 4, Article IV. In Article XI. the language is: "The judicial power of the United States shall not be construed to extend to any suit of law or equity commenced or prosecuted against *one* of the United States by citizens of another State," etc.

The late war changed no salient feature of our great confederation of equal and co-equal States. It only abolished slavery and conferred suffrage on negroes in general terms. The thirteenth amendment declares: "Neither slavery nor involuntary servitude," etc., "shall exist within the

United States, or any place subject to *their* jurisdiction."

The Constitution of the United States, in the first article, limits the Congress of the United States to "all legislative powers herein *granted*." And, in the first ten amendments, or Bill of Rights, it is declared that, "The *powers* not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Our Presidents, until late years, did not call the general government "a nation;" and to call such a creation "the nation," and capitalize the word "nation," as is now common, is the grossest centralism.

Washington called the District of Columbia "Federal property;" Jefferson spoke of our "Federal or general government;" Madison, of "the various forms of our extended Confederacy;" John Quincy Adams, of the "constitutional powers of the Federal government;" Jackson, of the patronage of the "Federal government," and of the "general government;" Van Buren, of the "concerns of the whole Confederacy;" William H. Harrison, of the "powers that have been *granted* to the Federal government;" Tyler, of the "office of President of this Confederacy;" Polk, of the "safeguard of our Federative com-

pact;" Pierce, of the "sole reliance of the Confederacy;" Buchanan, of the "construction of the Federal Constitution;" and Arthur, speaking to a foreign embassy, used the plural "*them*" and "*their*" when alluding to the United States.

Noah Webster, in the first preface to his great Dictionary, ignores a centralized government. He says: "With our present constitutions of government, *escheat* can never have its feudal sense in the United States."

"In many cases, the nature of *our governments* and of our civil institutions requires an appropriate language in the definition of words, even when the words express the same thing in England."

"A great number of words in our language require to be defined in a phraseology accommodated to the condition and institutions of the people of these States," etc.

"The United States commenced *their* existence under circumstances wholly novel and unexampled in the history of nations. *They* commenced with civilization, with learning, with science, with constitutions of free government, and with that best gift of God to man, the Christian religion. *Their* population is now equal to that of England."

It will be observed that Dr. Webster regards our Union of sovereign States as a confederation.

His suggestive preface is not to be found in some editions of his Dictionary to-day! He left it; the enemies of free governments have omitted it.

What are abuses of the Constitution?

It is common now to speak and write of the United States as "this government" and "the nation," and supplement the abuse of the Constitution by the use of such misnomers as "national Executive" and "Chief Magistrate of the nation," for simple President of the United States; and to prefix "your Excellency" or "his Excellency," when at the First Congress under the new Constitution, held in the city of New York, a joint resolution was passed, which has never been repealed, utterly ignoring the above titles, and enacting that the choice of the electors of the States shall be simply addressed as the "President of the United States." It is common in some quarters to speak of the President as the "ruler of the nation" or the "ruler of a free people," as if any people can be said to be free who tolerates a ruler or master. It is common to speak of Congress as the "national Congress" and "national legislature," when the name of that body is simply the Congress of the United States; and no other name is to be found in the Constitution.

In the convention of 1787 "national legisla-

ture" was proposed as a name for Congress, and at once rejected. We have the kindred errors of the "national Capitol," meaning the edifice in which the Congress meets annually, and also "capital" instead of the "seat of government of the United States," the words of the Constitution; and of "Congressmen," as distinguished from Senators in Congress. The Constitution knows only the equality and co-equality of "members of Congress," or Senators and Representatives.

The aristocratic title "Honorable" applied to Congressmen is as unconstitutional as the title "your Honor" applied to judges of courts, and that of "Excellency" applied to governors of States. The Constitution abhors titles. See prohibition in Article I., sections 9 and 10.

As it is common to use language not found in the Constitution, we hear and read of the "national Supreme Court," instead of the Supreme Court of the United States; also "national banks;" and Senator Blair did his best to establish a "national" system of education! The "National Soldiers' Home" is a modern misnomer. But perhaps the misnomer of misnomers is found in the use of the words "National State Guards," which is applied to State troops for local or home rule defence, and "National Insane Asylum"!

What is the crowning nationalism?

Arlington, the former home of George Washington Parke Custis, the adopted son of George Washington, was converted into a cemetery for the burial of United States soldiers, and named "National Cemetery." The battle-field of Chickamauga has become a "National Military Park," and belongs to the United States by the consent of Georgia.

Even the magnificent domain which ought to be known as Yellowstone Park is called the "National Park." And alike over the sad graves of soldiers, and over the wonderful parkland in the heart of this confederation of equal and co-equal sovereign States, waves the "national flag" as the symbol of the "nation"!

Long after this protest was written, the Supreme Court of the United States said that in speaking of the United States the plural should be used; and "it is entirely proper to speak of *these* United States." What else could be said? It is worthy of remark that in receiving Ambassador Eustis at the Elysée, Paris, President Carnot spoke of the "United States nation"! Europe has been badly taught by the centralists.

What is a President of the United States?

Simply an executive agent and servant of the

States for a term of four years. He is not called by his countrymen to the presidential chair, but by the States, through their appointed electors.

George Mason, of Gunston Hall, Va., argued in the convention that the President should hold his official trust for seven years, and thereafter be ineligible. Jefferson said: "I wish that at the end of four years the convention had made the President forever ineligible for a second term." Had Mr. Jefferson been elected by the States, through their electors, instead of by the House of Representatives, it is fair to say that one term would have completely satisfied him. The controversy with Burr stirred him to seek a vindication by the States, through the electoral college. So he served a second term.

One term would help to make a faithful President. We have, instead, save in a few instances, huckstering politicians. Mr. Lowndes of South Carolina well said that the "Presidency is an honor which is neither to be sought nor declined."

What is a present remedy for a growing presidential evil?

Article II., section 2, says that "the Congress may by law vest the appointment of such inferior officers as they think proper in

the President alone, in the courts of law, or in the heads of departments." The President has too much patronage. Departmental officers must meet with his approbation, from clerk to janitor. The framers of the Constitution mean by "the courts of law" the supreme and inferior courts of the United States. Try the judges. They are not elective, and ought not to be partisan. Great patronage is the dower of kings. Presidents should be free from its inviting corruption.

What is really the popular branch of the Federal government?

A late writer makes the following remarks: "The only officers of the general government chosen by the suffrage of the whole people are the President and Vice-President. This was not the intention of the framers of the Federal Constitution. The Constitution leaves the members of the electoral college free to elect any properly qualified citizen to the Presidency and Vice-Presidency; but, as every one knows, they really vote under inviolable instructions. It is true that a popular majority does not always secure the success of a presidential ticket; but the electoral college is constituted upon a far more popular basis than the Senate. The electoral vote of a great

State, like New York, for instance, cannot be offset by that of Nevada, though in the Senate New York and Nevada have precisely the same numerical strength. In any case, it may be said that the President has been chosen by a general election. He does not represent merely one State or one congressional district. The executive branch is, therefore, the most popular branch of the general government.

"It is well, sometimes, to be reminded of this fact, especially when the President's public policy is persistently opposed by a congressional majority —a condition which has occurred repeatedly in the history of this country."

What is the oath of a President of the United States?

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." No mention of a "nation" or "national government." To "preserve, protect, and defend" is to use only constitutional names and language in every public utterance and document, and emphasize them by appropriate acts, as well as to execute the laws within his jurisdiction. Yet one of our ablest

Presidents and statesmen lately wrote: "The nation's strength is in her people; the nation's prosperity is in their prosperity; the nation's glory is in the equality of her justice; the nation's perpetuity is in the patriotism of her people." The same writer, alluding to the assassination of President Carnot of France, called these United States "the American nation."

The following is a centralizing prayer from a well-known rabbi at a banquet: "If Thou didst call thy chosen people thy servant, is not also this great nation thy servant? If this nation finds its earth task in showing mankind the administration of human government in accordance with thy laws, shall it not attain a crown of lasting glory?"

Why are such utterances misleading?

Because they violate, unintentionally, of course, both the letter and spirit of the constitutions of the several States and of the United States. Further, such unconstitutional expressions educate the young men of the country in European methods of centralization. They lead up to one man and despotism.

Can the President adjourn Congress?

"He may," says Article II., section 3, "on

extraordinary occasions, convene both Houses or either of them, and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper." The evident meaning is that the President can only adjourn Congress when Congress, in special session, cannot adjourn themselves, which is a fit conclusion of "extraordinary occasions." This clause of section 3 relates solely to extra sessions. It is not to be understood as infringing upon the time fixed by law for regular sessions. The Constitution names the second Monday of December, but Congress may appoint a different day.

Can Congress order a general quarantine?

No. In the enumerated powers of Congress not a word can be found that authorizes the enactment of a general quarantine. The matter of quarantine belongs to the reserved rights of the States. The creation of a "national quarantine" is absurd. We have sugared our tea with this "national" misnomer so long that it becomes nauseating. In the late conflict of the general government with the health officers of the State of New York, the former justly suffered. The State of New York owns the water approaches to the city of New York, and had the right to

declare what foreign vessels from infected ports should not cast anchor in the docks. It is the duty of Congress to keep such approaches unobstructed. Congress have no power over quarantine, save when it relates to the navy-yards and other sea-coast property of the United States.

Is there a constitutional holiday?

Certainly not. The machinery of the government of the United States moves perpetually. The Constitution, Article II., section 1, clause 4, says: "The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States." After depositing his vote the carpenter may return to his plane, the merchant to his counter. There is no suffrage holiday, nor can courts of justice be closed on the day of "choosing electors." Each State may make a holiday of any day, but the United States have no constitutional authority to do so for the States. Uniformity in the day of voting for electors is simply to prevent corruption of the count and undue influence by unscrupulous officials. The United States have no religion. Neither has a State. Our systems of government are secular, and, as such, a departure from European and Asiatic methods.

What is meant by ex post facto law?

The Supreme Court of the United States held, in Calder vs. Bull, 3 Dallas, that the prohibition to pass an *ex post facto* law meant every law that made an act done before the passing of the law, and which was innocent when done, criminal. Also, a law which aggravated a crime, and made it greater than it was when committed, or which altered the legal rules of evidence, and received less or different proof than the law required at the time of the commission of the offence, so as to convict the person arraigned as an offender. An *ex post facto* law the same court held, in Fletcher vs. Peck, 6 Cranch, was one which rendered an act punishable in a manner in which it was not punishable at the time of its commission. The prohibition applies both to Congress and State legislatures. Such a restriction is essential to the just administration of government and the liberty of the people.

Is there constitutional authority to change the name or orthography of any place recognized by the States?

The power granted by the States to the United States, in the Constitution, "to establish post offices and post roads," is latitudinously interpreted. It was never intended to give authority to the Postmaster-General to alter the names or

the orthography of post offices which were and are recognized by the several States.

During President Harrison's term the Postmaster-General altered the significant and historical name of Newport's News to Newport News. It was so called by colonists, on hearing of coming succor from Governor Newport. Appomattox, also a Virginia village, was named Surrender by President Cleveland's Postmaster-General. Public clamor compelled a restoration of the historic name. The old historic city of Newburgh on the Hudson was put down in the Federal post-office records at Washington as "Newburg;" but the citizens clung to the spelling always recognized in New York State documents, "Newburgh."

Congress has no right to interfere with the names of places in the several States. They only have jurisdiction of names in Territories and nowhere else. It is not only absurd, but a usurpation which ought to be promptly rebuked, for a Potsmaster-General to change the name or orthography of any town written in State or county judicial records, or incorporated by the legislature. The power once admitted may lead to serious abuse.

What is the flag theory of the States-Union?

The flag of the United States was intended to

be hoisted on their forts, arsenals, and other buildings, and on territory belonging to the United States, and on their vessels of war, and over the army controlled by them.

The several State flags, such as the blue flag of Virginia and the white flag of New York, were intended to be raised over State troops, and wave over State buildings.

When the President, in the name of all the States, makes requisition on the individual States for troops for the "common defence," it was intended that each contingent should be mustered under its State flag into the service of the Union. During war the flag of the United States should only be used as the symbol of Union; and when hostilities ceased, State troops should be returned to their governors and resume their State flags.

No mention is made of a flag of the Union in the Constitution. It is an omission.

Is it proper to speak of "the State and Nation"?

It is not. The phrase is a growing absurdity. The States now number forty-five, and more will be admitted. Each has a coat of arms, and each has its methods of self-government, which differ widely from each other in many respects. States must have and preserve "a republican form of government." That is their compact as united

sovereigns. It has been shown that the United States are not a nation.

What is meant by the House of Representatives of the United States?

The people of the States in council. The House protects majorities.

What is the Speaker of the House?

The presiding officer of the people of the States in council. When the election of President is referred by the States to the people, the House resolve themselves into a special council of the people of the States, and then vote as States, separately.

What of the Vice-Presidency and the Senate?

Article II., section 3, says: "The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves." The inhibition is without reservation or qualification. There is no ambiguity here. The electors are not to vote for two inhabitants of the same State for President and Vice-President. It means partial disfranchisement for any attempt of the citizens of one State to monopolize two executive offices at the same time, and during prescribed terms.

As Article II. originally stood, the section did not name "President and Vice-President," but "two persons," to be balloted for. The tie vote and fierce struggle between Jefferson and Burr caused the adoption of the amendment which specifically sets forth how separate ballots shall be cast for President and Vice-President. In case of no election, the Senate chooses a Vice-President.

So much for the letter. The spirit, which is the very life of the letter, suggests that the equality and co-equality of the small States will become impaired if a large and populous commonwealth is permitted to have at the same moment, and during four years, two of her citizens in the first and second executive offices of the United States. One of them must be held to be ineligible in his own State. Necessarily the Vice-President would be discarded, as the ballot for President has electoral precedence.

The Vice-Presidency seems to have been of little importance to the framers of the unamended Constitution.

Dr. Franklin called the Vice-President "his superfluous Excellency."

What is meant by the Senate of the United States?

The States in council. The Senate protects minorities. Because States are constituents of

Presidents, and in a confederation each member should be equal and co-equal, and as each State was *a priori* sovereign, the smaller States are represented by two Senators, as are the larger and largest. The Senate arose from the necessity of compromise and union.

What is the balance-wheel?

No law can be enacted unless a majority of States and a majority of the people of the States concur. This prevents the States as corporate bodies from dominating the people who are corporators, and the people from dominating the States as corporations.

During the Articles of Confederation, States only voted. They were equal, as under the present Constitution. Nine States could pass a law. The keen eyes of Ellsworth, Sherman, and Johnson saw the vice, and insisted that Congress should be made bicameral. Two Houses of Congress were created; one House representing the numerical force of States, and the other the equipollency of States. What New York, Pennsylvania, and Virginia lose by the smaller States in the Senate, they regain by powerful representation in the House.

The idea of a Senate and House, as now constituted, was suggested by the "Connecticut sys-

tem" (since 1699) of two legislative Houses; one representing the equality of the towns, the other the whole people.

What of equality in the Senate?

It is an irrepealable provision of the Constitution that "No State, without its consent, shall be deprived of its equal suffrage in the Senate."—See Article V.

For what cause can a member of Congress be expelled?

With the concurrence of two-thirds, each House can expel a member for disorderly behavior. This punishment is temporary, and intended solely to defend the dignity of the people in council and the States in council. There is no authority to inquire into the personal history of a Senator or Representative before election. It is presumed that the several States and the people select with a view to their wants. Their will is sovereign. Neither House can resolve itself into a criminal court to try members for alleged offences against the laws of any State or Territory. That is a matter for the courts of law.

What are superior and inferior officers?

All officers appointed by the President "by and

with the advice and consent of the Senate," are to be held as superior; and such as are appointed solely by the President at any time and without tenure, are inferior.

What is the purpose of the taxing power of Congress?

It is stated in the enumeration of the first article of the Constitution: "To pay the debts, and provide for the common defence and general welfare of the United States."

How are these things to be done?

Congress is given the authority to "lay and collect taxes, duties, imposts, and excises," limited solely to the economical wants of the United States. Jefferson resigned the portfolio of Secretary of State because he would not agree with Hamilton, then Secretary of the Treasury, that a latitudinous protective tariff construction should be given the words, "the general welfare." Manifestly, the purpose of taxation is limited, as in all enumerated authority. A tariff is a tax levied to carry on the government of the United States. The words "general welfare of the United States" show the limitation of Congress.

Is a high protective tariff Constitutional?

It is not, for the sufficient reason that the Con-

stitution is not paternal. It was not ratified to protect and enrich individuals engaged in manufacturing or other industries, but to secure specific, economic, and limited support for all the States organized into a Union. The States have reserved powers with which to foster all industries within their boundaries. To infringe these inherent reserved rights of sovereigns, outrages equilibration.

What is legal tender?

Gold *and* silver coin. Mark, the Constitution does not say gold *or* silver coin. The framers were not monometallists, but bimetallists. In the first article, Congress is declared to possess the power to "coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures." For convenience and for uniformity the States, in the same article, deprived themselves of the right to "make anything but gold *and* silver coin a tender in payment of debts." Of course, this "gold and silver coin" must be made or minted by the United States as united sovereigns. The framers of the Constitution meant that the yellow and white metals should be at parity—gold, as the rarer metal, fixing the standard of silver—and no matter what might be the devices of speculators, the United

States should maintain the equal standard of their stamped constitutional coin. In other countries, "coining money" would be positive evidence of sovereignty, but it is a "delegated" power in our Union.

How is equilibration further shown?

By the passage of general and special measures in the House, by original bills for raising and appropriating public money, but more especially by the election of President of the United States; the members as electors voting by States, while yet representing the people of the States, when the appointed electors have failed to make a choice in the electoral college. Thus the election of President is transferred from the States to the people of the States, and by the people thereof relegated to the States again.

Why, in such case, does the House vote as States?

For the reason that the constituents of Presidents of the United States are not men, but States.

Why should the House originate money bills?

Because numbers are to be taxed, and numbers must give consent. States are not taxed. Article I., section 7, provides that all bills for raising

revenue shall originate in the House, but the Senate or States may propose or concur with amendments, as on other bills.

What about impeachment?

States, not men, being constituents of a President, therefore the people of the States in council, sitting as a grand jury, present an indictment in the form of articles of impeachment against him for high crimes and misdemeanors; but the States in council, sitting as a court, try him. The Chief-Justice presides, as the offence or offences are violations of the organic law.

Says the Constitution: "The Senate shall have the sole power to try all impeachments." Two-thirds of the members present can convict.

Defect.—Who is to preside in the absence of the Chief-Justice? If the Chief-Justice himself is impeached, what officer is to preside at the trial? The Constitution is silent. It would seem that such an emergency might have called the attention of the framers of the Constitution to the Speaker of the House and the Vice-President as presiding officers on the trial of the Chief-Justice.

What are courts of impeachment?

The States, in special judicial council, acting as united sovereigns.

What is meant by the Supreme Court of the United States?

The court of last resort; namely, the Supreme Court of the United States, to whom are delegated original and appellate powers. The Congress fixes the number of justices; the President, as selecting agent of the United States, nominates; and the States in council confirm or reject nominees. The justices hold their offices during "good behavior," not for life, as is often stated. The Supreme Court can declare an act of Congress, signed and promulgated by the President, unconstitutional and void. Men are transient. States are permanent. States, acting as united sovereigns, not men, construe the Constitution which they created. The Supreme Court are, then, the united sovereigns in final judicial council.

Defect.—In representative governments there should be no "good behavior" tenures of office. It leads to life service. The jurisdiction of the Supreme Court should have been limited to determining the constitutionality of a law of Congress and to "international" questions. Latitudinous construction has caused the court to invade the legal rights of States.

What is the difference now between Senate and House?

In 1810 the Senate of the United States were a

small body of but thirty-four members. They did not, for years, increase at all. For five years the Senators sat with closed doors. They did not legislate, as now, in competition with the House, but employed their time with appointments and treaties, and concurrence with the popular branch, and in conferences with the President and his Cabinet. It has been well said that the Senators regarded themselves then as ambassadors from sovereign States. Centralized nationalism was most obnoxious to them. Senators in those days frequently asked their legislatures for instructions.

The functions and complexion of the Senate have undergone so great a change that, like the Federal Supreme Court, the members busy themselves, with honorable exceptions, in interfering with the freedom and independence of the several States; and the House of Representatives, which represent the whole people, and up to 1842 was composed of members elected by the States at large, have become the custodian of the reserved rights, the general guardian and peerless champion of each and all of the sovereign States! The people now declare from their Congressional districts that ours is not a nation at all.

Why should not Senators be elected by numbers?

It would gradually help to destroy State auton-

omy. It would break down the barriers that guard minorities. The smaller States would first suffer, then the larger. Numbers are already represented in the House. Florida, in 1891, unanimously rejected the proposition to make Senators elective by direct vote of the people. In brief, it would terminate the States in council, which was intended to be a conservative check on numbers in the House, and so impair the treaty-making and ratifying power.

George Reid of Delaware moved that Senators should hold their office during good behavior. Robert Morris, the financier of the Revolution, seconded Reid, but it failed. The deputy from Delaware then desired to make the senatorial term nine years, one-third triennially retiring. That also failed. It was the desire of the anti-nationalists to limit the terms of Senators, and make them obey State instructions, so as to prevent misrepresentation in the States in council, but it failed. Six years makes the senatorial term too long, especially after the people of a State politically repudiate the party of a Senator.

An effort is still (1895) being made to elect Senators by a direct vote of the people of the States, with a view to make bribery and corruption impossible. It is fallacious. The present system is not at fault. The fault is with the leaders who

manufacture legislatures. If the "places of choosing Senators" be altered, partisans will dominate the State polls by a congressional "elections law." Senators are State officers, not officers of the United States. Said ex-Senator George F. Edmunds:

"The Senate always has been, and always will be, so long as constituted through election by the legislatures of the States, what John Adams called 'the sheet anchor of the Republic.' On the whole, it has been of invaluable service in the good government of this country. This attack upon the Constitution, and the House provision for the election of the Senators directly by the people, is an immense delusion, and an attempted disturbance of conservative balance, as the Senate is the feature that the makers of the Constitution intended to have most pronounced effect. The quality of men selected through popular vote is much more likely to reduce the quality of the body, as is perfectly obvious to any person who is at all read in the political history of this or other countries.

"In one or two States it may be possible to secure two or three men to vote for a particular Senator by means of purchase, which is a particularly bad thing; but it must be remembered that the men who manage that sort of thing can con-

trol the primaries to choose delegates to a State convention more certainly than the members of any State legislature ever elected, and that the people may generally be relied upon to vote for the party nominee, good or bad. If the States of the Union have a wise regard for their own State independence and safety, they will preserve the election in their own legislative body as they preserve the making of laws."

Is the Governor of a State superior to a Senator?

Both in dignity and in power. In 1891 the writer hereof thus defined the relative positions of Governor and Senator: Governor Hill, in leaving the gubernatorial chair, steps down considerably. The Governor of a State is far superior to a Senator of the United States. He is the first agent of a sovereign commonwealth and its people. He represents both the State as a corporation and the people as corporators. As Senator a man represents the State as a corporation, because the Representatives in Congress represent the people of the State. A Senator divides honor and power with his colleague. Thus Hill must divide with Hiscock, just as if the State as an entirety was divided into two senatorial halves.

The question is asked, Is not Hill, while completing his term as Governor, occupying two

offices? The answer is, No; because he cannot be a Senator until he takes the prescribed senatorial oath. The filing of credentials is a simple preliminary to the taking of that oath.

It is noised about that the Committee on Privileges and Elections of the Senate at Washington will debate how long a Senator-elect can hold a State office after Congress has been convened. It would be a silly debate; for although the Senate can constitutionally judge of the qualifications of its members, that body cannot decide the other question. The decision rests with the State, which has an undeniable right to elect another man in place of a Senator-elect who persistently keeps away from Congress; and then the Senate can inquire into the qualifications of one or both, for they stand as contestants.

A Governor of a State, in the absence of a legislature, can appoint himself to fill a temporary vacancy as Senator, providing he resigns the gubernatorial office after the act, and the Senate would be powerless to prevent him taking his seat.

Such is the independence of the State, and such the limitation of the general government.

How should treaties be made?

In the name of the United States, every State of the Union being separately mentioned as here-

tofore illustrated in the original treaties with France and Great Britain. In the treaties with Great Britain and France the thirteen Colonies by name are called "free, sovereign, and independent States," and as constituting in general terms the United States. Such form educates the officials and peoples of foreign countries in the essential fact that the United States "are," and that treaties must be made with *them*, there being no "national government."

The early Spanish and late Italian controversies with the United States were prolonged, because Spain and Italy thought that they had signed treaties with a "nation" similar to their own, the President being the chief ruler thereof.

Naming the States in treaties defines the name of the United States, and by directly connecting them severally with the treaties connects them collectively with all infringements, and thus enables foreign delegated agents at Washington to act understandingly.

The States in the Constitution denied themselves the power to make treaties individually between themselves, and severally with foreign countries, because they ratified a treaty, namely the Constitution, which in certain enumerated grants speaks for them collectively. The powers of the United States are enumerated because

delegated; the powers which the States prohibited to themselves are few and specifically named. Reserved powers or rights inherent in the several States are not enumerated because too numerous, as they embrace all which secure "life, liberty, and the pursuit of happiness."

No treaty with a foreign power can be called "the supreme law of the land" (Art. VI.), unless it follows the model of the Jay peace treaty with Great Britain. The States must be specially named as constituting united sovereigns, or the instrument is not drafted "in pursuance" of the letter and spirit "of the Constitution." Carelessness, ignorance, and nationalism have misled European diplomats. See fourth question, in which is set forth the exact acknowledgment of George the Third.

Are there two classes of citizens?

Yes. The Constitution provides that "No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President." In Article XII. of the Bill of Rights, it is provided that "No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States." The men of the Revolution were ex-

cepted, as their republican principles had been tried by every peril and sacrifice known to heroes and patriots.

To-day no alien naturalized can be President or Vice-President. This makes a "natural born citizen of the United States" of the first class, he being eligible to the two highest executory offices of the Union, while naturalized citizens are excluded.

Is "a natural born citizen" confined to the United States?

It would seem so. Persons born abroad of parents native to this country are not by any provision of the Constitution declared to be "natural born citizens." Constitutional enumerations are to be *strictly* interpreted and not subject to loose law and opinions. All persons born outside of the United States are subject to the Presidential inhibition.

Do the several States only make citizens and voters?

The United States have no power to create citizens or voters. Suffrage being a State reservation and the highest evidence of citizenship, it follows that the State courts should naturalize aliens. It was certainly never intended that an

alien, ignorant of our language, and consequently of the Constitution of the State in which he resides and of the United States, should be made a citizen. Suffrage is based on intelligent understanding of our institutions, their limitations and necessities.

Suffrage is not a right, but a privilege. It can be modified, restricted, and even withdrawn in certain cases such as treason, felony, etc. There could be no modification, restriction, or withdrawal were it a right *per se.* The United States courts may assist, when convenient, the State courts in naturalization, because they are courts of record. It is permissible simply and based on the fact that there are citizens of the United States as United Sovereigns.

Who are citizens of the United States?

The second Article of the Constitution, relating to Presidential eligibility, quoted in a preceding answer, refers to "a citizen of the United States." In the original instrument such citizenship is not defined, but left to be construed as an extension of State citizenship. The Fourteenth Amendment says: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

Such was the generally admitted construction, prior to this amendment, as to the constitutional status of white persons.

Abroad and on the high seas the United States protect their citizens; at home the several States protect all citizens. The first is limited; the second is unlimited within their police borders. Congress has power to "establish a uniform *rule* of naturalization" so as to prevent internecine conflicts. There the power of that body ceases. It follows that "a uniform rule" carries with it the right of a State to make citizens of aliens.

What is a concise definition of a citizen of the United States?

The answer is: As the United States are but an extension of the governments of the several States, a citizen of the United States is but an extension of the privileges and immunities of a citizen of the several States.

The Supreme Court have never decided with precision what are the privileges and immunities of a citizen of the United States. The constitutional fact is that while three-fourths of the States can abridge, and even withdraw, the aforesaid privileges and immunities by amendment, the United States cannot abridge the privileges and immunities of a citizen of a State. This shows the fore-

going definition of a citizen of the United States to be correct, and it is strange that in the Slaughterhouse case there should have been majority and minority opinions as to what constituted such citizenship.

Is there inter-State commerce?

No. The Act of Congress creating an "Inter-State Commerce Commission" ought to be regarded as giving currency to unconstitutional language. "The Congress shall have power to regulate commerce *with* foreign nations, and *among* (amidst) the several States, and *with* the Indian tribes," are the words of the Constitution. Mark the distinction. "Inter" means "between," and is not found in the enumeration of Article I., section 8. "Among the several States," because they have a compact which authorizes the regulation of commerce in their midst; and "with foreign nations" by special treaty; and "with the Indian tribes," because commerce with them must be by special treaties, the United States holding them as tribal nations.

Great care should be used in preserving the words and distinctions of the Constitution. The Supreme Court of the United States decided (Gibbons vs. Ogden, 9 Wheaton) that the acts of the legislature of New York, granting to Livingston

and Fulton the exclusive navigation of the waters of the State, in vessels propelled by steam, were unconstitutional and void acts, and repugnant to the power given to Congress to regulate commerce, so far as those acts went to prohibit vessels licensed under the laws of Congress, for carrying on the coasting trade, from navigating the waters of New York.

Why? Because the waters of the States, so far as commerce is concerned, are free to all the States, and are, in fact and practice, waters that run in the midst of them as forming the United States. Navigable rivers of great commercial importance run among, and not between, States. So do railroads and canals. There is coming to the front another phase of the Inter-State Commerce Act. Since the fulmination of one of the Justices of the Supreme Court, it is claimed that inter-State commerce law covers the loading and unloading of foreign vessels at our ports, and any trouble with stevedores can be quelled by United States soldiers!

What about a congressional "elections law"?

The Constitution declares, in Article I., section 4, that the "times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature

thereof." This was intended to insure regular representation in Congress. It is an admission, also, of the sovereignty of the several States. The Constitution continues: "But the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators." This delegated power to "make or alter such regulations" can only be used when a State fails to elect Senators and Representatives, and thus prevents a full representation in Congress.

Defect.—It should have been added that when such State returns to its usage, the power of Congress shall instantly cease. The intent is plain to any thinker, but recent events have shown that partisans sometimes do not care to think constitutionally. The Senators and Representatives mentioned are presumably members of Congress. The clause does not say they are.

Have the United States no supervisory power?

Assuredly not. They cannot supervise State elections. Each State chooses its own electors, Senators, and Representatives. The United States can erect no polling places within the States. Each House of Congress has only authority to "judge of the elections, returns, and qualifications of its own members" when assembled (Art. I., sec. 5). An "elections law" or

force bill has been well called by Murat Halstead "a belated fiction."

What is the language of the United States?

The English language. Since the great additions of our own lexicographers, Webster and Worcester, it may be called the Anglo-American tongue. The earliest legislatures, conventions, and debates of the Congresses were conducted in English; the Articles of Confederation were in that language; the debates and the text of the Constitution of the United States are in English. In fine, all laws of the several Colonies, United Colonies, and of the United States have been promulgated in the all-conquering English or Anglo-American. *Esto perpetua!*

Has Congress power to acquire and police "national parks"?

There is neither express nor implied power in the Constitution authorizing the acquisition of historical battle grounds, or other territory, for parks. The United States can only acquire sites for necessary buildings and grounds for actual and constant use, not for ornament. It is suicidal policy in the several States to give the general government unnecessary lodgment within their borders. The States should not part with a foot

of their territory for sentiment. Military parks, under the supervision of the Secretary of War, are nurseries of consolidation and nationalism, and aid in destroying civil government.

What is the full title of the President?

The President of the United States of America. He should so sign public documents. (See Article II., sec. 1.)

How can States be divided?

The Constitution (Art. IV., sec. 3) declares: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress." This saved the smaller States from the encroachment of, or absorption by, the large and populous States.

During the war between the States, West Virginia was, by a revengeful and partisan act of Congress, "formed or erected within the jurisdiction" of Virginia, and without the consent of its legislature. It is claimed to have been justified as a war measure. But the Constitution makes no

reservation. It vetoes at once and at all times the idea of the partition of a State unless by consent of its legislature. The erection of West Virginia was a bad precedent. There is no guarantee that other partitions may not follow in the future. Every violation of the Constitution leads to a similar result, in the same or other directions.

The magnificent cession by Virginia to the United States, and accepted in Congress assembled, March, 1784, of its portion of the great Northwest Territory, should have prevented its partition. This territory, save a narrow northern strip, composes the now powerful States of Ohio, Indiana, and Illinois. Virginia was followed by cessions of Northwest Territory belonging to Massachusetts in 1785, and Connecticut in 1786 and 1800.

Virginia made a deed to its northwestern domain on strict conditions that it should be converted into States, and "that the States so formed be distinct republican States, and admitted as members of the Federal Union, having the same right of sovereignty, freedom, and independence as the other States;" also, that the land should be held as a common fund for the use and benefit "of such of the United States as have or shall become members of the Confederation or Federal Alliance." Congress solemnly approved

the provisions of the deed of cession by legislative action.

It was a crime to partition the grand old "mother of States and of statesmen," whose *Sic Semper Tyrannis* is "the proudest motto," said the eloquent S. S. Prentiss, "that ever blazed upon a warrior's shield or a country's arms."

What is treason?

The Constitution defines it thus: "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." This is also a clear definition of the Union called the United States. (See Art. II., Sec. 1. "the United States, or any of them." *Them*, not *it*, is the explicit plural. Treason, therefore, is a crime against *united sovereigns, not a sovereign.*

Can States commit treason?

No. Equal States cannot rebel against equal States. Co-equal States cannot rebel against co-equal States. Sovereign States cannot rebel against sovereign States. Individuals acting independently of their State can commit treason against the States-Union or the United States.

In a strict constitutional sense, in 1861–65 there were no United States save those that were

united to fight each other. They were nearly equal in number. Each party was in revolt against the Constitution. One repudiated it entirely and formed a new one; the other disobeyed it while pretending to be guided by it, and asserted that there was a "higher law." In 1865, after the battle of the Titans, the disunited States became again the United States of America.

Reconstruction was a mad partisan effort to prevent harmonious reunion. It failed. To-day the Union is consent. States cannot be arrested, imprisoned, tried, and reduced to territories, and readmitted into the Union they constructed. Once a State always a State.

Burke told George III. that he could not arrest three millions of people for treason. Reconstruction was a futile attempt to arrest four times that number of people, who were sovereign corporators of sovereign corporations called States. States are perpetual chartered corporations. Individual corporators die, States survive.

What of the location of a seat of government?

The States must cede the territory to the Congress, and thereafter that body shall "exercise exclusive legislation in all cases whatsoever over such district, not exceeding ten miles square." (See Art. I., sec. 8.) Maryland and Virginia

ceded the District of Columbia in 1790. In 1800 the seat of government was removed from Philadelphia. The site was selected by Washington by authority from Congress. The territory south of the Potomac, containing Alexandria, was afterwards retroceded to Virginia. As to removal, if States refuse to cede territory for a new district, the capital must remain where it is.

Can the President transact official business outside of the District?

His official residence and office are confined to the District of Columbia, where Congress and the Supreme Court assemble. If he transacts the business of his agency on the soil of any State, he becomes an intruder. The State reserves its own territory for the discharge of the duties of officials under its own Constitution. In exceptionally necessitous cases the President might act officially on such land as a State may have sold to the United States, or in a Territory over which Congress exercises jurisdiction.

How are the United States to acquire sites for public buildings within States?

By purchase, with the consent of the legislatures of the several States. The State legislatures make reservations for the enforcement of the

service of civil process and the arrest and punishment of persons charged with crime against their laws. Otherwise, Congress have exclusive authority over forts, magazines, arsenals, dockyards, and other needful buildings within the purchased territory.

Who are electors?

They are elective State officers. In a body called usually the Electoral College they are the States in special council. The theory of the framers of the Constitution was that the electors should be intermediaries between the presidential candidates and the suffragants of the several States. The electors, acting as States, were to choose a President and Vice-President. This would, it was thought, avoid unseemly wrangling, demagogism, and consequent excitement which might end in bloodshed. It was clear at first that the appointment of electors, being an act of a sovereign State, would keep alive the idea of sovereignty.

Immemorial usage has overridden the original design of the Constitution-makers. The present method was thought by Andrew Jackson to be a sham, yet it protects the smaller States. A more direct vote for President and Vice-President might appease vanity, but it has its evils, which arise in

the temptation of State officials to nullify the will of the people thereof by dishonest count and certification.

How are electors created?

By each of the States. They are appointed.

Have State legislatures absolute control as to the manner?

Their control is absolute. South Carolina constituted her legislature her electoral agent. The State legislatures can order that electors, who shall tally with the number of Representatives in Congress, shall be appointed by congressional districts, and that the States shall be divided into two districts for the appointment of electors-at-large, who tally in number with the two Senators. A writer thus summarizes the free action of Maryland:

"In 1800 Maryland had eight Representatives in Congress, and, of course, was entitled to ten electors. The act of the legislature divided the State into ten districts, which could not be the same as the eight congressional districts, and provided that the voters of each of these districts should choose a presidential elector. In this case no elector was appointed by the State at large. From 1804 to 1828 Maryland was entitled to

eleven electors, and by the act of 1802 the State was divided into nine districts, seven of them choosing one elector each, and two of them two electors each. Still more curious was the election of 1832, in which, by an act of the previous year, the State was divided into four districts, of which one—the Eastern Shore, together with Hartford County—was empowered to choose three electors; another—Baltimore City—two; a third—Baltimore County—two; and the rest of the Western Shore, as the fourth, four—thus making up the eleven presidential electors to which the State was entitled."

Investigations into the electoral practices at different periods of North Carolina, Massachusetts, New York, Ohio, and Michigan, and other States, will show that each State is an absolute power, and made so by these words of the Constitution (Art. II., sec. 1): "Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

Can a State repel invasion?

Yes; if "actually invaded, or in such imminent danger as will not admit of delay." (Art. I., sec. 10.)

The United States cannot grant to a foreign power, as Mexico, for example, the privilege of entering Texas, or other State on the border, in time of peace, with armed and uniformed troops. The Governor of such State could regard such entry as invasion, and repel it. "The United States shall guarantee to every State in this Union a republican form of government, and shall protect *each of them* against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence." (Art. IV., sec. 4.)

What is domestic violence?

Armed insurrection within a State against its government and its laws; also, armed invasion of a State by a sister State.

What authorizes a call for the intervention of the United States?

When the civil power of a State is exhausted. The same rule applies to a State when the local military are powerless to execute the laws. In either event the Federal marshals and military are only used as subordinate aids to secure peace as an armed *posse comitatus* under State officials.

Can United States troops otherwise interfere?

The President may send troops to their reser-

vations through or within the States, to protect forts, arsenals, custom-houses, post-offices, but not to protect private property or the property of corporations. The government of the United States cannot run railroads or steamboats engaged in ordinary traffic. The government may select post-roads, but, if railroad routes, it cannot constitutionally order United States troops to protect trains belonging to corporations, but must hold the corporations carrying the mails responsible for non-delivery during strikes originating in quarrels between employees and employers. To do otherwise is to attack the fundamental principles of the society of sovereign States.

What about troops to sustain "inter-State commerce"?

The government of the United States has nothing to do with private traffic. That is the business of the several States. It is the duty of the government of the United States to send forward the mails and troops to their reservations, and it is the duty of the States to see that the mails and troops go through the several States without hindrance or molestation. No act of Congress, no pretence whatever, can set aside the plain language of the Constitution as to the rights of Governors and legislatures in case of "domestic violence."

The government of the United States has contracted with owners of elevated, cable, and electric corporations in New York, and other cities, to affix to their cars postal departments, dominated by receiving, assorting, and distributing clerks, on their entire routes. In time this contract will give new employment to United States troops. The satrapy of the ancient days may find a parallel in our era. The history of the Roman Pretorian Band and the Swiss Guards of the Bourbons may be repeated here. Ours is virgin soil for usurpations.

United States troops protecting the mail service is one thing, but protecting property of a chartered State corporation is quite another. Corporations, when they bring danger upon themselves, and trouble and impecuniosity to their employees, will not scruple to make every car a mail-car, and thus cause citizens to be shot for presumed interference with postal matters and also with inter-State commerce.

Is the opinion of Justice Brewer Law?

In the Debs *habeas corpus* case a full bench of justices decided that he was in contempt of the Circuit Court, sitting at Chicago during the labor difficulties, in not obeying an injunction of Judge Wood, presiding, and therefore not entitled to the

benefit of the liberty-giving writ. Justice Brewer delivered for the court a decision so remarkable that it may be reversed in the future. It declares that the United States have the right to intervene without regard to the reserved powers of a State and of State laws, and to set aside all obstacles to the transportation of the mails and the conduct of inter-State commerce.

The hundred arms of Briareus were as nothing to the tentacles of the general government. True, said Justice Brewer, the government is one of enumerated powers, but behind every enumeration is absolute sovereignty. It can reach the citizen anywhere, and in the exercise of that sovereignty the intermediate agency of the State must be disregarded. The "national government can use its authority to call out the army and the militia in every quarter to sustain the Washington rulers." The one conclusive answer to the Brewer opinion is: *Delegated power is not sovereign power.*

The threat of an august tribunal to use force is not republican save when war darkens the land. "John Marshall has made his decision," said President Jackson; "now let him execute it!" It requires the executive department to do that. The people of the States will always be slow to enforce an opinion which is unconstitutional.

And the opinion of Justice Brewer is not constitutional, and will not obtain. Hamilton himself would not advocate such centralization. It is of a piece with the reported centralizing language of a late Attorney-General when he filed in the Supreme Court his petition for a rehearing of the Income Tax decision: "The United States respectfully *represents*," instead of *represent;* "the United States *was* expected to rely for *its* customary revenues upon duties, imposts, and excises," instead of *were;* and "*it* [the United States] ought to refund," etc.

What of the future of United States troops?

When all the Territories are States, this arm of force, borrowed from Europe, should cease. There should always be a navy, but not a regular army.

How often is "the Union" and "this Union" mentioned?

"The Union," twice. "This Union," three times. The foregoing quoted words are definitions of the purpose of the framers of the Constitution. The States united or formed into "this Union" of sovereigns shall guarantee to every sovereign member of "the Union" what? A "republican form of government." Mr. Randolph's

"national government" and Hamilton's monarchical ideas were carefully avoided.

How can the Constitution be amended?

Two-thirds of both houses of Congress can propose amendments, or, on the application of the legislatures of two-thirds of the several States, Congress shall call a convention for proposing amendments. Such amendments must be ratified between three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress. States amend, not individuals; and for that reason Rhode Island, Delaware, and Nevada are equal to the more populous States of New York, Pennsylvania, and Ohio in the ratification or non-ratification of a proposed amendment. Men vote as corporators; States vote as sovereign and perpetually living corporations. States severally count the votes of men; the United States count the votes of the several States.

Why three-fourths of the States?

Because three-fourths are a working quorum of the United States. Ratification is an act of State legislation. It is the highest exercise of supervising sovereignty.

What can the small States do?

Rhode Island or Delaware can amend the Constitution of the United States as parts of the three-fourths, but the United States have no power to amend the Constitutions of these small States of the Union. The smallest State can vote to unseat a President, but the United States cannot unseat the Governor of the smallest of the States. The reason is that the States are principals.

What of the Bill of Rights?

The first ten "Amendments," as they are called, constitute a Bill of Rights, and were passed by the new Congress begun and held at the city of New York on Wednesday, the fourth day of March, 1789. They were ratified between the constitutional number of States, 1791.

The preamble to the joint resolution of Congress says: "The conventions of a number of States having, at the time of the adoption of the Constitution, expressed a desire, in order to prevent misconstruction and abuse of its powers, that further *declaratory* and *restrictive* clauses should be added, and as extending the ground of public confidence in the government will best insure the beneficent ends of its institution: *Resolved*," (here follows the joint resolution proposing the

"Amendments" to the legislatures of the several States). The articles so ratified have special application to the reserved or ungranted powers of the States. The Supreme Court of the United States have so decided.

The Eleventh Amendment was proposed at the first session of the third Congress, and ratified between the States in 1798. The Twelfth Amendment was proposed at the eighth Congress, and ratified in 1804.

What are declaratory, and what are restrictive?

Article I.—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This, while restricting Congress, is declaratory of the conclusion of Article VI., unamended Constitution, that "no religious test shall ever be required as a qualification to any office or public trust under the United States."

Congress is also prohibited from "abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

What of the Louisiana Lottery decision?

In the *habeas corpus* cases of George W. Dupre, of the *Daily States* of New Orleans, and John

L. Rapier, of the *Daily Register* of Mobile, the Supreme Court of the United States gave to Congress unlimited control over the mail within the limits of the several States. The appellants were charged with sending lottery matter through the mail in violation of an act of Congress. The opinion of the court was based on a previous deliverance of that tribunal, known as Jackson, *ex parte*, a case where the prohibition of the mailing and transmission of lottery matter by the law was questioned. The prohibitive provisions were as to fraudulent lotteries, but the amended statute includes all lotteries. In the former case it was argued that to exclude from the mail newspapers containing printed matter relating to fraudulent lotteries was an abridgment of the constitutional right of the press, and this argument was used in the cases of Dupre and Rapier on the far more solid ground that the Louisiana Lottery was a chartered institution of a sovereign State, over whose local legislation Congress has no power to legislate. But the court decided that the amended act gives the United States authority to regulate transportation of letters and newspapers in each State, which carries with it punishment for violation, and which must be conceded to be an enormous step toward centralization.

The United States become usurpers when they

infringe the freedom of speech and of the press. The lottery was a purely local institution. It was not opposed to "the general welfare." The United States are not the custodians of the morals of the people of the States. The States are such custodians. The mail belongs to the States. The United States are their agent and mail-carrier.

What about church and State?

Massachusetts gave us the first amendment. It is worthy of the young Liberty that was rocked in the cradle of old Faneuil Hall. Entire separation of State and church is meant by it. The principals or the States reserved to themselves the acknowledgment of a Supreme Being, and so omitted it in the charter of the agent.

Mark the words of prohibition: Congress shall make no law respecting what? "An *establishment* of religion, or prohibiting the free exercise thereof." The amendment does not say "a religion," but any religion, whether Aryan, Christian, Mohammedan, or Pagan. The United States must have nothing to do with the religious consciences of men. In no case must they prohibit the free exercise of that conscience.

Our treaty with Tripoli explains itself. This treaty was concluded November 4, 1796, was rati-

fied by the Senate June 7, 1797, and proclaimed June 10, 1797.

Article XI. is as follows:

"As the government of the United States is not in any sense founded on the Christian religion; as it has in itself no character of enmity against the laws, religion, or tranquillity of Mussulmans; and as the said States have never entered into any war or act of hostility against the Mohammedan nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries."

This treaty bears the signature of George Washington and his Secretary of State, Timothy Pickering, and as this was only twenty-one years after the Declaration of Independence, with most of the great actors in the founding of the government still living, and with whom this treaty found no protest, it may be accepted, whether right or wrong, as an expression of what its founders regarded as the character of the government of the United States.

That which the States prohibited to the United States they meant to be applicable to themselves. A State is debarred from using its official authority to sustain the worship of any sect. All it can do is to protect all sects from molestation or vio-

lence. The people of the State of New York, in the preamble to its Constitution, return grateful thanks to Almighty God for their freedom, and simply declare that "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in the State to all mankind."

Free religion, free speech, free press, free schools, and free assemblages make a free people.

Article II.—"A well-regulated militia being necessary to the security of *a free State*, the right of the people to keep and bear arms shall not be infringed." This is both declaratory and restrictive, and really amends section 8, Article I., unamended Constitution, which provides for the organizing, arming, and disciplining the militia, and for the governing such part of them as may be employed in the service of the United States, and which reserves to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress. The amendment restrains Congress from disarming the militia, as well as the people of the several States. The people would not have a great standing army for the use of a Cromwell or a Cæsar. A small body of regular troops for frontier and special use were enough for the general agent of the States.

Articles III. and IV. prohibit interference with the property rights and personal rights of individuals, by quartering soldiers in time of peace in any house without the consent of the owner, or in time of war unlawfully, and also protects the people from unreasonable searches and seizures. It is proper to say that soldiers of the United States should not be quartered on the soil of any State without the express consent of the legislature of such State in time of peace. Such soldiers may pass through a State to the reservations of the United States at all times.

Articles V. and VI. declare the sanctity of indictment by grand jury, and the right to a speedy and public trial in all criminal prosecutions by an impartial jury of the State and district wherein the crime shall have been committed, the accused person to be informed of the nature and cause of the accusation, to be confronted with witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence. The word "district" is an amendment to section 3, Article III., original or unamended Constitution. An accused person could be indicted and tried anywhere in a State until this amendment was ratified. A fruitless effort was made by a citizen of the District of Columbia to extradite

a prominent New York editor for criminal libel. The ground assumed before a Federal tribunal was that a newspaper is published in any State, city, or district in which it circulates.

In Article V. it is provided that no person "shall be compelled in any criminal case to be a witness against himself." It had been largely held that this exemption applied to accused persons, but the Supreme Court of the United States, in January, 1892, decided that it also applied to witnesses. In a case before the United States Circuit Court, Judge Gresham presiding, Charles Counselman, a witness, refused to answer whether he had received special railroad freight rates in violation of the Inter-State Commerce law. Judge Gresham held the refusal as contempt, and the Supreme Court overruled his decision.

Article VII., which is both declaratory and restrictive, ordains that "in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law."

Article VIII. prohibits excessive bail and fines and cruel and unusual punishment, whether by the governments of the several States or the United States.

Article IX. declares that "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." And Article X. declares that "The powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." Delegated powers, which are never permanent, are necessarily enumerated; undelegated or reserved powers are permanent, and need no enumeration. Enumerated powers are to be strictly construed. Ungranted powers are the residuary mass of natural, legal, and political rights.

Article XI. is purely judicial. It abrogates the original amenability of sovereign States to private suit. Article III., section 2, of the unamended Constitution says: "The judicial power shall extend to all cases of law and equity . . . between a State and citizens of another State, . . . or between a State or the citizens thereof, and foreign States, citizens, and subjects." The amendment of 1798, which is restrictive and mandatory, declares that "The judicial power of the United States shall *not* be construed to extend to any suit in law or equity commenced or prosecuted against *one* of the United States by citizens of another State, or by citizens or sub-

jects of any foreign state." "The inhibition," says Kent, "applies only to citizens or subjects, and does not extend to suits by a State, or foreign states or powers." Note the decentralization: "*one* of the United States."

Are there examples of State exemption?

Yes. In Chisholm vs. Georgia, 2 Dall. 419, the Supreme Court of the United States rendered judgment against the State. Such was the public alarm that the Supreme Court, in Hollingsworth vs. Virginia, 3 Dall. 378, decided that the amendment related back so as to dismiss every suit which had been instituted against a State. In the Iowa original package decision of the same tribunal, in 1891, the court delivered a centralized opinion, but public pressure forced Congress to pass an act which enabled the court to give a decentralized opinion by deciding said act to be constitutional. But it is a poor subterfuge and a bad precedent to preserve the reserved powers of Iowa and the other States by congressional legislation.

By the Virginia Act of May 12, 1887, passed at the special session, the Commonwealth's attorney in each county, city, or town where the proceeding is, as well as the attorney-general in the cases therein described, is directed, upon complaint of

the treasurer of the county, and the auditor, to sue for the recovery of taxes due by a tax-payer who has tendered interest coupons which have been detached from the bonds of the State of Virginia. The object of the enactment is to compel the holders of such coupons to prove their genuineness in court before their acceptance in payment of dues to the State, there being of coupons detached from the bonds of Virginia, according to the statement of the complainants' bill, more than four millions of dollars, in value, in the hands of the public at large, but held chiefly in London.

In case of disobedience to the commands of the statute by any of the officers, a fine is provided. On the sixth day of the ensuing June an order was made in the Circuit Court of the United States for the eastern district of Virginia, in the case of Cooper against Marye and others, restraining the parties defendant from executing the said statute of May 12th. But, in despite of the said restraining order, Attorney-General R. A. Ayres, attorney for the commonwealth in the county of Fauquier, John Scott, and the attorney for the commonwealth in Loudoun County, J. B. McCabe, proceeded to institute the prohibited suits. Each of these officers, upon a rule to show cause, was arraigned before United States Circuit Judge Bond,

and adjudged guilty of a contempt of court. Each was condemned to pay a fine and the costs, to dismiss the suits, and be confined in the city jail of Richmond until the judgment was complied with. The defendants each obtained a writ of *habeas corpus* from the Supreme Court.

At the October term, 1887, Justice Stanley Matthews rendered a decision reversing the court below, the concluding part of which is as follows:

"The principal contention on the part of the petitioners is that the suit nominally against them is, in fact and law, a suit against the State of Virginia, whose officers they are, jurisdiction to entertain which is denied by the Eleventh Amendment to the Constitution. We adjudge the suit of Cooper and others against Marye and others, in which the injunctions were granted against the present petitioners, to be in substance and law a suit against the State of Virginia. It is therefore within the prohibition of the Eleventh Amendment to the Constitution. By the terms of that provision it is a case to which the judicial power of the United States does not extend. The Circuit Court was without jurisdiction to entertain it. All the proceedings in the exercise of the jurisdiction it assumed are null and void. The orders forbidding the petitioners to bring the suits, for the bringing of which they were adjudged to be

in contempt of its authority, it had no power to make. The orders judging them in contempt were equally void, and their imprisonment is without the authority of law. It is therefore ordered that the petitioners be discharged." *In re* Ayres, *in re* Scott, *in re* McCabe, 123 United States Reports, 443.

The victory over usurpation was conclusive.

Mr. Justice Matthews, for the court, gave the following rule of interpretation of the Eleventh Amendment:

"To secure the manifest purpose of the constitutional exemption guaranteed by the Eleventh Amendment requires that it should be interpreted not literally and too narrowly, but fairly and with such breadth and largeness as effectually to accomplish the substance of its purpose. In this spirit it must be held to cover not only suits against a State by name, but those also against its officers, agents, and representatives, where the State, though not named as such, is nevertheless the only real party against which alone, in fact, the relief is asked, and against which the judgment or decree effectively operates."

Chief Justice Marshall, speaking for the court, in Osborn vs. the Bank of the United States, 9 Wheaton, 783, held that, however interested a State might be in the judgment, it was not to be

considered as sued unless named in the record. The decision and interpretation of Justice Matthews, in the name of the court, departs from the opinion of Marshall. In the same case it was also held that as the State of Ohio itself, which threatened the franchises of the bank, could not be made a party defendant, the suit might be maintained against the officers and agents of the State who were intrusted with the execution of the laws thereof. The opinion of Justice Matthews was a decided victory over the centralizing opinion of the court dominated by the great Chief Justice.

Is the Supreme Court infallible?

By no means; although the habit of reaffirming old opinions would appear so. If the States adjourned the court *sine die* by an amendment to the Constitution, they would only recommit to themselves respectively delegated judicial powers. If the court shall ever attempt to consolidate the States, it is here predicted that this will be a remedy. There are two ways of punishing justices of the Supreme Court: by Congress cutting down the number of justices as they die, or abolishing the court by the States.

What of the income tax?

A direct tax is a tax levied on land and houses.

The Supreme Court of the United States (1895) decided that the income derived from such a source was a direct tax, and the money collected by revenue officers under a law of Congress passed and promulgated, was, in consequence, refunded by the Secretary of the Treasury.

The nullification of the act produced great excitement. It was denounced as plutocratic. But a majority of the court had decided on a rehearing at the instance of the Attorney-General, and public opinion, that Congress had no right to directly tax a class of citizens who were opulent, or owners of bond securities, or with fixed limited income. Taxation must be uniform. To be uniform it must be apportioned among the people of the States. A dissenting justice, Harlan, predicted great evils would flow from an opinion which demolished the power of the United States to levy a direct tax. It had served the country in the war between the States, and there might be good reason to impose such a tax again. The Chief Justice and a majority of the court thought there were other and fairer sources of revenue than direct Federal taxation.

Patrick Henry and William Grayson (the latter a senatorial colleague of Richard Henry Lee in the first Congress) opposed the ratification of the Constitution in the Virginia Convention, and one

of the grounds was that the instrument took from the several States the sole right of direct taxation, which was the highest act of sovereignty.

What would Henry and Grayson now think of a decision of the Supreme Court which relegates to the several States this "highest act of sovereignty" more than a century after their eloquent opposition?

The truth is the general government is weakened in proportion to the number of States, because the enumerated powers are small compared with the reserved powers of the several States; and, further, the distribution of powers is the diffusion of powers, and diffusion is not a tonic, but a relaxant, in politics as in medicine.

Men love and protect weakness, not inherent strength. So long as the United States are the agent of the States and the people they will endure by common consent. When they become despotic they will share the fate of all tyrants.

Elsewhere it is shown how the war amendments destroyed the enumeration which was intended to preserve representation by equal apportionment of taxation. The Fourteenth Amendment is fatal to direct taxation as set forth in Article I.

Article XII. readjusts the duties of electors, and so amends Article II., section 3, of the unamended Constitution as to prevent a repetition

of the Jefferson-Burr contention, and prescribes that the Vice-President must have the same constitutional eligibility as the President. This important addition was omitted by the framers.

The amended article did not prevent the formation of an electoral commission outside of it, and which disfranchised Louisiana and Florida, and "counted in" Rutherford B. Hayes as President.

Where is "slavery" first mentioned?

For the first time the word slavery occurs in the Thirteenth Amendment to the Constitution. The future historian who reads the orations and debates on "slavery" in and out of Congress will be amazed to find the words "held to service or labor" the passionless language of Article IV., section 3, of the Constitution signed by Washington. These are the words of the framers: "No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

If the exact words of the Constitution had been used, instead of being suppressed by public speakers, a million and more of valuable lives and billions of treasure might have been spared by

gradual and peaceful emancipation. A word not in the Constitution fired the blood and exploded the shell. That word was "slavery."

What is the brief history of persons held to service or labor?

In the convention, antagonisms arose between the Northern States, which were commercial and manufacturing, and the Southern States, which were agricultural. The question arose, touching representation in the House of Representatives and taxation, Shall persons bound to service be counted? Again, Shall the trade in Africans on the western coast of Africa be continued?

Was a compromise effected?

Yes. Article I., section 3, says: ["Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."] This apportionment gave the Northern States a majority of five in the first House of Representatives. The second section of the Fourteenth Amendment repealed it by

ordering a representative apportionment to include the "*whole* number of persons in each State, excluding Indians not taxed." As there can now be no enumeration, there can be no constitutional levy of a direct tax. The Fifteenth Amendment was intended to repeal more fully the words in brackets.

What of the importation of Africans?

Virginia and the Middle States opposed further importation; New England and three Southern States united to continue it until 1808, twenty years thereafter. These Southern States wanted more sable laborers; New England ships were engaged in bringing them at a great profit.

The Southern States were threatened with taxation of exports, which would ruin them as agricultural commonwealths. Compromise: Exports would not be taxed if commerce was to be regulated by a majority vote, and the importation of Africans was guaranteed. The coveted exchange was given in these words in section 9 of Article I.: "No tax or duty shall be laid on articles exported from any State." The other concession was made in these explicit words, also in section 9 of the same article: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not

be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." In Article V., relating to amendments, the foregoing concession is expressly excepted from amendment.

"Slave trade" is not used by the framers. They carefully avoided the ethnological name "negro." Had the convention at once put an end to the further importation of negroes, the clause ordering the rendition of "persons held to service or labor" would not have been adopted as a part of the compromise, and no Dred Scott and other similar excitements opened the way to disastrous war.

It is a noteworthy fact that in the beginning of the present century New England had two hundred and two vessels engaged in the slave trade, fifty-nine of which belonged to Rhode Island. One of the grandee slavers was Colonel Malbone of Newport; Captain John Hoar of Massachusetts was also conspicuous as a successful slaver.

What would be an act of justice to the negroes?

The United States, having by constitutional authority authorized the continuance of the slave trade for twenty years, should furnish transportation to Liberia, the Congo Free State, or other

western portions of Africa, to all descendants of African slaves who may wish to go thither. Jefferson, in 1821, advocated gradual emancipation and deportation.

What did Jefferson say?

Speaking of gradual emancipation and deportation, Mr. Jefferson was prophetic. The public mind was not ripe for it; and he says, with far-reaching thought: "Yet the day is not distant when it must bear and adopt it, or worse will follow. Nothing is more certainly written in the book of Fate than that these people are to be free; nor is it less certain that the two races, equally free, cannot live together in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them."

He insisted that slow and peaceable emancipation and deportation would lead to the filling up of the country by free white laborers.

What did Abraham Lincoln say?

In June, 1862, a delegation of negroes waited on President Lincoln at the White House. He made to them the following remarkable speech:

"Why should not the people of your race be colonized? Why should they not leave this country? This is, perhaps, the first question for con-

sideration. You and we are a different race. We have between us a broader difference than exists between almost any other two races. Whether it is right or wrong I need not discuss; but this physical difference is a great disadvantage to us both, as I think your race suffers greatly, many of them by living with us, while ours suffer from your presence. In a word, we suffer on each side.

"If this is admitted, it shows a reason why we should be separated. You, here, are freemen, I suppose. Perhaps you have long been free, or all your lives. Your race are suffering, in my opinion, the greatest wrong inflicted on any people. But even when you cease to be slaves, you are yet far removed from being placed on an equality with the white race. You are still cut off from many of the advantages which are enjoyed by the other race. The aspiration of man is to enjoy equality with the best when free; but on this broad continent not a single man of your race is made the equal of ours.

"Go where you are treated the best, and the ban is still upon you. I do not propose to discuss this, but to present it as a fact with which we have to deal. I cannot alter it if I would. It is a fact about which we all think and feel alike. We look to our conditions owing to the existence

of the races on this continent. I need not recount to you the effects upon white men growing out of the institution of slavery. I believe in its general evil effects upon the white race. See our present condition. The country is engaged in war. Our white men are cutting each other's throats, none knowing how far their frenzy may extend; and then consider what we know to be the truth. But for your race among us there could not be a war, although many men engaged on either side do not care for you one way or the other.

"Nevertheless, I repeat, without the institution of slavery and the colored race as a basis, the war could not have had an existence. It is better for us both, therefore, to be separated. I know that there are free men among you who, even if they could better their condition, are not as much inclined to go out of the country as those who, being slaves, could obtain their freedom on this condition. I suppose one of the principal difficulties in the way of colonization is that the free colored man cannot see that his comfort would be advanced by it. You may believe you can live in Washington, or elsewhere in the United States, the remainder of your lives, perhaps more comfortably than you could in any foreign country. Hence you may come to the conclusion that you have nothing to do with the idea of going to a

foreign country. This (I speak in no unkind sense) is an extremely selfish view of the case. But you ought to do something to help those who are not so fortunate as yourselves. . . . For the sake of your race you should sacrifice something of your present comfort, for the purpose of being as grand in that respect as the white people."

Instead of assisting ex-slaves to sail for Africa, and thus deplete the growing population, the politicians invented the Fourteenth and Fifteenth Amendments, which breed discord instead of harmony. To this moment these people are the prey of the knaves of both political parties.

Are there ambiguities and inelegances in the Constitution?

Yes. Generally the Constitution is a model of pure Saxon English. The following, no doubt, have their origin in "selection," which is illustrated in the beginning of this volume. For example, Article I., section 2: "The House of Representatives shall choose *their* Speaker and other officers." Section 3: "The Vice-President of the United States shall be president of the Senate, but shall have no vote unless *they* be equally divided." "The Senate shall choose *their* other officers." "The Senate shall have the sole power to try all impeachments. When sitting for that

purpose, *they* shall be on oath or affirmation." Section 5: "Each House shall be the judge of the elections, returns and qualifications of *its* own members." "Each House may determine the rule of *its* proceedings, punish *its* members," etc. "Each House shall keep a journal of *its* proceedings, and from time to time publish the same, excepting such parts as may, in *their* judgment, require secrecy." Article I., section 7, authorizes the President to return a bill passed by the Senate and House of Representatives, "with his objections, to that House in which it originated; *who* shall enter the objections at large on *their* journal."

We have in the foregoing a precedent for the pluralization of the House and Senate, and, by implication, the Supreme Court.

How was the Constitution ratified?

Thirty-nine delegates of the whole number (fifty-nine) signed it. The names of George Wythe, Edmund Randolph, Luther Martin, Oliver Ellsworth, and other distinguished deputies of the twenty discontents are not on the roll. Randolph, Grayson, and George Mason, all of Virginia, were present, but did not sign. Article VII. provided that: "The ratification of the conventions of nine States shall be sufficient for the

establishment of this Constitution *between* the States so ratifying the same."

Why "between"?

Because each State was sovereign, and treaties must be made between sovereigns. States, not men, framed the Constitution. "Done in convention with the unanimous *consent* of the *States* present," are the final emphatic words of the original instrument. Remember States, not men, were "present" as contracting parties.

Were other plans proposed?

Yes. Gouverneur Morris moved to refer the proposed Constitution to a general convention chosen by the people. It did not have a second. Hamilton moved to submit the instrument to Congress, and, if that body agreed to it, then it was to be laid before the States in convention. Rejected. It was then agreed that Congress should send it to the legislatures of the several States, to be by them submitted to a convention in each State for ratification, the delegates whereof should be chosen by the people thereof. Pennsylvania was first to call a convention for ratification, but second to ratify. Delaware was the first to ratify, December 7, 1787, and without proposing an amendment. "We, the people

of Delaware State," began the ratification. Massachusetts declared it to be a new Constitution, a solemn compact between the States. New Hampshire, the ninth State, ratified June 21, 1788. But eleven States, March 4, 1789, when the new Congress convened, had ratified.

Where were the twelfth and thirteenth States?

Out among the independent countries of the world. Rhode Island was never represented in the convention. North Carolina was represented, but declined to ratify, and did not do so for more than eight months. Rhode Island ratified May 29, 1790.

What did Massachusetts do?

John Hancock and James Madison determined the fate of the Constitution in Massachusetts. Madison wrote to Washington: "We must take off some of the opposition by amendments. I do not mean such as are to be made conditions of ratification, but recommendations only. Upon this plan we may probably get a majority of twelve or fifteen, if not more." This device succeeded. Hancock presented amendments, and his adherents voted for the Constitution with this explanation of that gentleman: "I give my assent to the Constitution in full confidence that

the amendments proposed will be a part of the system."

It is a curious fact that eighteen members of the Massachusetts convention, Hancock among them, had been engaged in Shays's Rebellion for the cancellation of debts. Rufus King and Samuel Adams contributed to securing a majority of nineteen of three hundred and thirty-three members.

What did New Hampshire do?

When the convention convened, the opponents to the Constitution were in the majority. The voters of the State were opposed to an act of ratification. An adjournment was carried, and, on reconvening, the delegates ratified the Constitution. They disobeyed the will of their constituents, being convinced, as were some other statesmen, by "the rhetoric of the Federalists"!

What was the course of Virginia?

Virginia, named for the virgin daughter of the Tudors, was first settled by charter, May, 1607, at Jamestown. In the dedication of Spencer's "Faerie Queene," Elizabeth is called "Queen of England, France, Ireland, and Virginia." Tucker says that "the first fœtal Commonwealth was the Old Dominion." In 1623–24 Virginia declared

that no tax could be laid on the Colony but by consent of the House of Burgesses. In 1645–46 this prophecy of the Revolution was repeated. In 1651–52 the Commonwealth of England made a treaty with Virginia, conceding the same freedom to her people as was enjoyed by the people of England; that no taxation nor forts nor garrisons should be imposed on her without the consent of her Assembly, and that body should transact her local affairs. During the Commonwealth, Virginia elected her governors.

Is it not consistent that Virginia now insisted on a Bill of Rights?

Jefferson, on his return from France, was amazed that personal and property and other essential rights were unprovided for in the Constitution.

In the Assembly of Virginia, November 14, 1788, an address was issued, asking Congress to call "a convention of deputies from the several States, with full power to take into consideration the defects of the Constitution that have been suggested by the State conventions," and to "report such amendments thereto as they shall find suited to the common interests, and to secure to ourselves and the latest posterity the great and inalienable rights of mankind." A second

convention was not called, but amendments were passed by joint resolution in Congress, and submitted to the legislatures of the States for ratification. Had the amendments not become a part of the Constitution, revolution would have followed.

The State of Virginia had led, in the colonial era, in the war for "redress of grievances" within the British Union, and afterwards in the war for independence. She was called the "mother of States and of statesmen" in the after-time, because she had given to the Union Kentucky, Ohio, Illinois, and Indiana, and a galaxy of Presidents, jurists, and politicians of great lustre. It was a proud and deserved title, and she has, as a sovereign lady should, worn her honors with distinguished dignity. Virginia should be painted as the mother of the Gracchi, always pointing to her children as her jewels, was the sentiment of Calhoun, and the artist idea of the civilized world.

Can you name some of the men of the Virginia convention of 1788?

Yes. James Madison, who had been conspicuous in shaping the Constitution; John Marshall, James Monroe, George Mason, "the lord of Gunston Hall," a man of transcendent

talents, and an active participator in the formation of the first Constitution of Virginia in 1776, and a deputy to the "Federal convention" at Philadelphia; Wilson Carey Nicholas, afterwards Governor of Virginia; Governor Edmund Randolph; Edmund Pendleton, an eminent jurist, and President of the Court of Appeals; Henry Lee, the "Light-horse Harry" of the Revolution, and subsequently Governor of the State and historian of the Southern war; Bushrod Washington, a nephew of George Washington; George Wythe, also a deputy to the Philadelphia convention, and Chancellor of the State, called by Jefferson the "Cato of his country, but without the avarice of the Roman;" James Innis, an eloquent lawyer, and Attorney-General of the State; Patrick Henry, the great orator, whose eloquence, beautifully says John Scott of Fauquier, came to him "as the song to the nightingale;" Benjamin Harrison, the father of President William Henry Harrison, a signer of the Declaration of Independence, and Governor of the State in 1781; William Grayson, a colonel in the army, Representative and Senator in Congress; Theodorick Bland, an active officer of the Revolution, and a member of the family of Washington; George Grayson, a deputy to the Philadelphia convention, a lawyer and statesman of ability.

James Madison, often claimed to be the "father of the Constitution," was a young man of some thirty-seven years, ample browed, small, alert, patient, and preëminently logical. He made short speeches, pressed to the point in debate at once, and met with skill and precision the eloquent onslaughts and persistent objections of Henry, the leader of the opposition to ratification. The matchless orator was not equal to the strategist of Montpelier, whose reserve could not be easily disturbed, and which always gave him advantage.

Madison has been called a dissembler, but the fact seems to be that he feared the thirteen States would disintegrate and drift back to Great Britain unless the Constitution was ratified. Hamilton had the same fear. He accepted the Constitution only as a compromise.

In the Virginia and Kentucky resolutions of 1798, in opposition to the Alien and Sedition Act of the Adams administration, Madison flung out the flag of State sovereignty. The reserved gentleman, who afterwards seemed to grow smaller under the nodding plumes of Queen Dolly of the White House, was a statesman of large dimensions when he was called to a battle of political ethics. It was strange that in the Virginia convention one of the authors of the "Federalist" should be

found side by side with benign John Marshall, whose tall form was to occupy the chair of Chief Justice of the Supreme Court of the United States, while Madison was to execute the laws which the great jurist should hold to be constitutional, and both live to be octogenarians. It was a strange coincidence, too, that both these men should have been afflicted with incurable internal disorders—Judge Marshall in his last days, and Madison for more than sixty years—thus illustrating how the soul dominates the body, and how great public duties can be performed with cheerfulness even in the spasms of pain. It is equally strange that James Monroe and Bushrod Washington should meet in the same convention, the first destined to the Presidency in an "era of good feeling," and the second to interpret the new Constitution as an Associate Justice of the Supreme Court of the United States.

It is a romance of coincidences, perhaps links in an unbroken chain of events.

So great was the apprehension that too much power had been conceded to the United States, that the Constitution was only ratified by ten votes in a convention of one hundred and sixty-eight members. But, as we shall see, it determined the fate of the instrument in the New York convention.

Before ratification, Virginia passed the following reservation: "We, the delegates of the people of Virginia, duly elected in pursuance of the recommendation of the General Assembly, and now met in convention, having fully and freely investigated and discussed the proceedings of the Federal convention, and being prepared as well as the most mature deliberation hath enabled us to decide thereon, do, in the name and behalf of the people of Virginia, declare and make known that the powers granted under the Constitution, being delivered from the people of the United States, may be resumed by them whenever the same shall be perverted to their injury or oppression, and that every power not granted, thereby remained with them and at their will."

What of Randolph's defection?

The change in the tactics of Governor Randolph assisted ratification. His biographer, Moncure Daniel Conway, calls him a "recusant." The angry opponents of the Constitution saw the Governor in a worse light. John Scott, in his able and searching work, "The Republic as a Form of Government; or, the Evolution of Democracy," regards Randolph, more than Madison, as the "father of the Constitution," because much of his plan was retained in one form or another.

Mr. Conway deplores that the convention did not adopt Randolph's "efforts to make the relative State and Federal powers definite and unmistakable. The clause he would have added in ink has been written in blood." That is to say, the late war consolidated the republic, which is a mistake. It produced no change in structure. Governor Randolph's Henrico constituents had voted for him with the understanding that he was to oppose ratification until the States should amend the Constitution. He accepted, but disregarded their wishes.

The supplicatory appeal of this eloquent and able Virginian, just as the convention of ratification was about to adjourn, is pathetic in its mild defiance. He said: "The suffrage which I will give in favor of the Constitution will be ascribed by malice to motives unknown to my breast. But, although for every other act of my life I shall seek refuge in the mercy of God, for this I request His justice only."

Mr. Randolph saw his "national government" disappear before the logic of Ellsworth and the threat of Brearly of New Jersey and the frowns of the people. "In the convention," wrote Luther Martin in his report to Maryland, "there was a distinct monarchical party." They could not help Randolph. He did not approve of the changes

in his strong government plan, yet would have appended his name to the Constitution had another general convention been declared essential to ratification. It was finally thought by Madison, and concurred in by Randolph, that a second convention would discredit the first one, and Virginia was urged to ratify, leaving amendments to be regarded as conditions subsequent, but treated as conditions precedent. In other words, to use the language of a resolution of the Virginia Assembly while considering the long series of amendments proposed to Congress to be laid before the States, "In the moment of their adoption" they should be looked upon as "coeval with the ratification of the new plan of government."

Have they been so considered?

Yes. The Eleventh Amendment was held in the case of Hollingsworth vs. Virginia, before mentioned, to be a part of the Constitution before formal ratification and really contemporaneous with the instrument. Governor Hancock of Massachusetts had before agreed with Hamilton in the "Federalist," "that a State could not be sued." Yet his State was sued, the Governor paying no attention to the process served on him. The Supreme Court of the United States not long after decided that such suits would lie. That

procured the exemption of the several States from suits which detracted from their sovereignty. Governor Hancock's agency in this reform entitles him to the gratitude of all the States.

What occurred in the New York convention?

This convention met at Poughkeepsie in the summer of 1788, and continued in session for six weeks. It was composed of sixty-five members. Among them were Alexander Hamilton, John Jay, who was less than five feet in height, aquiline nose, with the student stoop, and blue-eyed, subsequently first Chief Justice of the United States, but then Secretary for Foreign Affairs; Chancellor Livingston, called by Franklin the American Cicero, and a type of the colonial patrician, who afterwards delivered the oath of office to President Washington on the balcony of Federal Hall, in Wall Street, while Hamilton, the coming first Secretary of the Treasury, looked on from his office opposite; and Mayor Duane, of New York city. These were the chief champions of the ratification of the Constitution. The principal opponents were Governor George Clinton, president of the body; Robert Yates, Chief Justice of the State; John Lansing, who had withdrawn from the Philadelphia convention with Robert Yates, and was afterwards Chancellor; Recorder Jones,

of New York city; John Williams, Gilbert Livingston, and Melancthon Smith, the latter called by James Kent, a daily spectator, "a man of metaphysical mind and embarrassing subtleties." Of all the members of the convention the master of the Grange most feared Smith. The debates were of a high intellectual character, Hamilton and Smith leading in opposition to the opinions of each other.

The convention was in no humor to accept the Constitution without amendments. Governor Clinton was hostile to it even with amendments. It had been adopted under lock and key, and he and others regarded it as giving too much power to the agent of the principals. It suited most of the men who framed it, but was not the expression of the people.

During the last three weeks of the session, news arrived that New Hampshire had ratified the Constitution. That being the ninth State, the old Confederation was *ipso facto* dissolved, or would be when the first Congress under the new Constitution assembled.

Neither Lansing nor Smith nor Clinton were moved by the ninth ratification. The State of New York had a commanding commercial geography, and although the population was but 340,120, it could remain out of the new union

until a second convention amended the defective Constitution. So thought, also, the majority of the members.

In vain had Hamilton cried out with Cobham, "Oh, save my country, heaven!" In vain had his Scotch tenacity been warmed into compromise by the maternal blood of the creole of St. Nevis.

The express brought a letter to Hamilton from Madison, giving the information that Virginia, the most populous State, with a population of 747,-610, had ratified the Constitution. The effect was electrical. Twelve members deserted the anti-Federal party. The Constitution was ratified, June 26th, by three votes—only three votes out of sixty-five. To the end George Clinton was a Roman. He refused to ratify. It is impossible not to admire a man who has the courage of his convictions. The convention adopted Melancthon Smith's resolution that the Constitution be ratified in full confidence that certain powers contained in the instrument should not be exercised until a general convention of the States had been called to propose amendments, and with the reservation, modelled after that of Virginia, in these strikingly explicit words: "We, the delegates of the people of the State of New York, duly elected and met in convention, having maturely considered the Constitution for the

United States of America, agreed to, on the 17th of September, 1787, by the convention then assembled at Philadelphia in the commonwealth of Pennsylvania (a copy whereof precedes these presents), and having also seriously and deliberately considered the present situation of the United States, do declare and make known that all power is originally vested in, and consequently derived from, the people, and that government is instituted by them for their common interests, protection, and security; that the powers of government may be reassumed by the people whenever it becomes necessary to their happiness; that every power, jurisdiction, and right which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, remains to the people of the several States, or to their respective State governments to whom they may have granted the same." Afterward Rhode Island made the same reservation.

It can scarcely be credited that during the ratification conflict there was a secret movement to divide the State of New York, said to have been approved by Washington and Hamilton. A new State was to have been formed in the southern portion of the State, whose citizens approved ratification, while the rest, if necessary,

were to be coerced into the Union. Hamilton in the convention and elsewhere hinted clearly at the eventuality of the coercion of stubborn States.

Washington signed the Constitution, but expressed to General Lafayette discontent with provisions which did not meet his approbation. The leader of the Revolution desired with Hamilton a stronger government. He did not believe in the capacity of the people for self-government, and thus wrote to Gen. Harry Lee: "It exhibits a melancholy verification of what our trans-Atlantic foes have predicted, and of another thing, to be still more regretted, and is yet more unaccountable, that mankind when left to themselves are unfit for self-goverment."

Can a State be constitutionally coerced?

No. Hamilton and Madison made an effort to so amend the Articles of Confederation as to coerce a State when a debtor to the Confederation, as was New Hampshire. It signally failed. Edmund Randolph, in his draft of a new Constitution, submitted the following: "That the national legislature ought to be empowered to call forth the force of the Union on a State failing to fulfil its duty thereof." Not a deputy voted for it nor in any wise advocated it. In committee of the whole it fell dead. Madison

was now against coercion. Hamilton was not. Yet he dared not advocate a measure which destroyed free government.

Coercion of a State in peace or war is neither expressed nor implied in the Constitution. Why? Because if the Union was not consent it was tyranny. In fact, there was no implication in enumerated powers.

Was popular opposition to the Constitution widespread?

The Constitution unamended was overwhelmingly opposed by the people of six States: Virginia, North Carolina, New York, Rhode Island, New Hampshire, and Massachusetts. Deputies in these and other States, some from the best, others from unquestionable motives, were unfaithful to their constituents. The machinery of a government for the United States had been constructed; the rights of the States and the people overlooked.

A second convention for revision might have healed the differences quickly and fully. It might have saved posterity blood, treasure, and partisan and sectional conflict in politics.

Six States ratified unconditionally, namely, Delaware, Pennsylvania, New Jersey, Georgia, Connecticut, and Maryland. For some time the

outlook indicated that Mr. Bingham's proposition in the old Congress, to divide the country into several confederacies; or the hint of Gouverneur Morris in the convention, of a peaceful and friendly separation of the Northern and Southern States; or the separate republic composed of New York and New England favored by Governor George Clinton; or the Confederacy of Southern States favored by Patrick Henry, might at last be prophetic.

Where did the new Congress meet?

Congress met in the city of New York. For twenty-seven days there was no quorum, which compelled Congress to adjourn from day to day. On the first day of April, 1789, they elected Gen. Frederick Augustus Muhlenburg, of Pennsylvania, Speaker of the House of Representatives.

It required an earnest appeal to the laggard members to come to New York and start the wheels of the new machine. It was necessary to count the electoral votes and apprise General Washington that he had been elected President. The retired soldier at Mt. Vernon was silent and reticent. A strange apathy, if not timidity, had fallen on some Senators.

On the 6th of April the clouds parted and let through some sunshine.

Richard Henry Lee, Senator from Virginia, who had offered the first resolution of independence, and who had opposed ratification without amendments, arrived in New York. That graceful and eloquent patriot gave the Senate a quorum. A temporary president enabled the body to count the vote of the electors and notify the President-elect. Colonel Lee had left Henry and Mason dissatisfied, but he carried with him amendments to the Constitution with which to neutralize consolidation.

While Congress was in a dilemma, which looked as if failure might bring chaos, there were anti-Federalists who still resisted. As late as the 9th of April, Representative Tucker of South Carolina was the sole member of the House south of Virginia. Washington came, and on his inauguration at Federal Hall, in Wall Street, April 30th, the "new form," as he called the untried government, went into operation.

Was this an auspicious beginning?

A future Buckle, writing a history of American civilization, might reason as follows: The sword had achieved the independence of the States. The new government was civil. A civilian pure and simple should have been elected President. General Washington was a coercionist, a national-

ist, and a protectionist. Hamilton ruled. Thomas Jefferson should have been the first instead of the third President. That event would have made impossible the odiously tyrannical Alien and Sedition law of John Adams.

The reaction came, and Jefferson, the champion of the States, broke down the nationalistic Federalists. He gave in his inaugural the true theory of the reserved rights of the States and the limitations of the government of the Union.

The great war between the States could not have occurred if Jefferson had been chosen first President and Madison second President. The States would have been on their good behavior. No one, no party thereafter, would have stood for "the nation," which means localized coercion and consequent tyranny. The start was wrong, and we have not yet paid the penalty.

Whatever a future historian may say, we of the latter part of the nineteenth century, looking over into the new century, find Washington without a parallel in heroism and patriotism. All honor to the model man of the world!

What of the third term heresy?

There was a deep and bitter prejudice against unusual power among our revolutionary ancestors. When it was proposed in Virginia, during the war,

to make Patrick Henry dictator, there arose a cry among patriots which had terrible significance. His brother said to him with deadly decision: "I learn that certain parties desire to create you dictator. Before sundown of the day you accept I will plant a dagger in your heart!"

Power and long official tenure go together, and hence the opposition to a third term President. One term was regarded by Washington as enough. He did not desire to serve a second term because of the opposition generated by the idea and his distaste for public office. Thomas Jefferson, in a warm patriotic letter, urged Washington to permit his name to go before the people for a second term. He contended that it was the duty of the President to make a sacrifice of his personal feelings for the good of his country. After a second term, literally forced upon him by political opponents as well as friends, he never had a thought of a third term. Thus was established that unwritten law which will always make it perilous for any man whose ambition prompts him to override it and invoke the vengeance of patriots on dictators.

This Washingtonian precedent is a declaration to the States and the people that ROTATION IN OFFICE IS THE LIFE OF A REPUBLIC.

What was the Declaration of Independence?

An ordinance of "separation" from Great Britain. It was a prophecy of the coming first and second Constitutions, especially of the Bill of Rights of the latter. It expressly declares for "separation" in the preamble to the bill of indictment against George III. Jefferson knew that it would intensify hostilities.

Is separation a peaceful and efficacious remedy?

It never can be and it would be folly to think so where there are conflicting opinions and interests.

Revolution is a natural right. It is therefore a perfect right which can enforce itself. Separation is an imperfect right, and cannot enforce itself.

If ever a successful war is waged against the Union by the people, growing out of centralized encroachments, the United States would cease to be, but the States would live. As an example, the Confederation passed away, but the States survived. Ours is not an "indestructible Union," but the States are indestructible bodies politic. They are perpetually vivified by the people who occupy them.

What did Choate say?

July 4, 1858, Rufus Choate remarked that "the

States may be compared to the primordial particles of matter, indivisible, indestructible, impenetrable, and exist in their independent identity, while the Union is an artificial aggregation of such particles." Chief Justice Chase's glittering epigram of an "indestructible Union of indestructible States" seems to have been plagiarized from Webster's "liberty and union one and indivisible, now and forever," and from Choate's brilliant comparison.

What were the opinions in subsequent days?

Josiah Quincy, in 1811, seemed to think peaceful separation could be accomplished. On the question of admitting Louisiana, Mr. Quincy, member of Congress from Massachusetts, said: "If this bill passes, it is my deliberate opinion that it is virtually a dissolution of the Union; that it will free the States from their moral obligation, and as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation—amicably if they can, violently if they must."

In December, 1814, the Hartford convention reported: "If the Union be destined to dissolution by reason of the multiplied abuses of bad administration, it should, if possible, be the work of peaceable times and deliberate consent.

Wherever it shall appear that the causes are radical and permanent, a separation by an equitable arrangement will be preferable to an alliance by constraint among nominal friends, but real enemies." In 1844 the legislature of Massachusetts adopted a resolution declaring: "The Commonwealth of Massachusetts, faithful to a compact between the people of the United States, according to the plain meaning and intent in which it was understood by them, is sincerely for its preservation, but that it is determined, as it doubts not the other States are, to submit to undelegated power in no body of men on earth;" and that "the project of the annexation of Texas, unless arrested on the threshold, may tend to drive these States into a dissolution of the Union."

Mr. Madison, the principal draftsman of the treaty between the States, lays down this rule: "It is an established doctrine on the subject of treaties that all articles are mutual conditions of each other; that a breach of any article is a breach of the whole treaty; and that a breach committed by either of the parties absolves the others, and authorizes them, if they please, to pronounce the compact violated and void. Should it unhappily be necessary to appeal to those delicate truths for a justification for dispensing with the consent of particular States to a

dissolution of the Federal pact, will not the complaining parties find it a difficult task to answer the multiplied and important infractions with which they may be confronted?"

What say the famous Virginia and Kentucky resolutions?

The Virginia resolutions were drawn up by James Madison, and the Kentucky resolutions by Thomas Jefferson. They were aimed at the Alien and Sedition law, as before stated. The following is the first Kentucky resolution:

"*Resolved*, that the several States comprising the United States of America are not united on the principle of unlimited submission to their general government, but that, by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government, for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government, and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each State acceded as a State, and is an integral party, that this government created by this compact, was not made the exclusive or

final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

What is meant by "no common judge"?

The Articles of Confederation provided for a "perpetual union." The new Constitution simply for a "more perfect union"—that is, a union of consent, not of force. The Articles of Confederation provided that no change should be made in the Confederation "unless such alterations be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of *every* State." The new Constitution provides for amendments to it by three-fourths of the legislatures of the States, or by State conventions, in either case to ratify alterations proposed by Congress.

Under the Confederation the Articles precluded "a common judge." The new Constitution does not. The framers failed to make provision for an umpire in case of a conflict of States such as occurred in 1861–65.

Should there be an umpire?

The foregoing quoted opinions of Madison, Quincy, and Jefferson, of the Hartford convention and legislature of Massachusetts, show the necessity of a "common judge."

Defect.—Three-fourths of the States alter and amend the Constitution. Why should not three-fourths in convention of the whole be a "common judge"? It is a curable defect. The longevity of the Union would be indefinitely promoted by such an amendment.

What are the United States governmentally?

An extension of the governments of the several States. That is all. In December, 1825, only six months before his death, Thomas Jefferson gave, as the result of his great experience, study, and reflection, the following exposition of the origin, limitation, and intent of the government of the United States, which was a protest to the Virginia legislature:

"The States in North America which confederated to establish their independence of the government of Great Britain, of which Virginia was one, became, on that acquisition, free and independent States, and, as such, authorized to constitute governments, each for itself, in such form as it thought best.

"They entered into a compact (which is called the Constitution of the United States of America) by which they agreed to unite in a single government as to their relations with each other, and with foreign nations, and as to certain articles particularly specified. They retained, at the same time, each to itself, the other rights of independent government, comprehending mainly their domestic relations.

"For the administration of their Federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, legislative, executive, and judiciary, in the manner settled in that compact; while to each severally, and of course, remained its original right of appointing, each for itself, a separate set of functionaries, legislative, executive, and judiciary, also for administering the domestic branch of their respective governments.

"These two sets of officers, each independent of the other, constitute thus *a whole government for each State separately;* the powers ascribed to the one, as specifically made Federal, exercised over the whole; the residuary powers retained to the other, exercisable exclusively over its particular State, foreign herein, each to the other, as they were before the original compact."

What is to be thought of Jefferson's final words?

The foregoing should be closely read by every

citizen and student of Constitutional law. It is invaluable also to the foreign diplomatist, who is slow to understand the relations of principal and agent as set forth in the simple compact between the States. It is the clearest and most statesmanlike exposition which language can convey. It is like the Kohinoor, which holds within its translucent self the value of a hundred gems of the mineral garden. It embodies more than Kent and Story knew of the Constitution, and exceeds and satisfies the desires of the warmest decentralist. It is the very crystallization of age, experience, and patriotism. That a man of nearly eighty-three should write such a brief but exhaustive commentary is as wonderful as that the same mind at thirty-three should have penned the Declaration.

Did the late war nationalize the Constitution?

No. In the Slaughterhouse cases (16 Wall. 82) the effect of the Thirteenth, Fourteenth, and Fifteenth Amendments was fully considered by the Supreme Court, and afterwards thus summarized by Justice Miller in an address before the University of Michigan, June, 1887, as follows:

"With the exception of the specific provisions in the three amendments (13, 14, 15) for the protection of the personal rights of the citizens and

people of the United States, and the necessary restrictions upon the power of the States for that purpose, with the additions to the power of the general government to enforce those provisions, no substantial change has been made in the relations of the State governments to the Federal government."

Chief Justice Fuller, for the Supreme Court, held in the New York Electrical Execution case that the Fourteenth Amendment "did not radically change the whole theory of the relations of the State and Federal governments to each other and of the people to both." This opinion was reaffirmed in the McElvaine case in December, 1891.

Is the Thirteenth Amendment valid?

It is. The ratification of the amendment, December 18, 1865, by the united action of Northern and Southern white legislatures was a renewed affirmation of the compact between the States, and a repudiation of the unconstitutional Emancipation Proclamation of Abraham Lincoln, on January 1, 1863, nearly two years before the conclusion of the war between the States.

It will be seen by the certificate of Secretary Seward that the amendment could not have been ratified but by a union of the States that had recently been at war with each other.

What was the history of the Thirteenth Amendment?

The war between the States being over, the Southern white people, as the governing class, returned at once to their duties under their several State Constitutions and the Constitution of the United States, and ten of their respective legislatures proceeded to emancipate the negro slaves. Alabama called a convention, and was the first Southern State to emancipate the negroes. The vote stood ninety-eight for, two against. Texas, Mississippi, and Florida followed as soon as possible. Hence the ample vote for the ratification of the Thirteenth Amendment.

The Confederate States having failed to bring about a final separation, it was held that in consequence of such failure each of them were in and of the Union. The logic of this position, voiced by the Supreme Court of the United States, met the approval of the Congress at Washington. Both sections acted together in adding the following amendment to the Constitution:

ARTICLE THIRTEENTH.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall

exist within the United States, or any place subject to *their* jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

The following is the certificate of the Secretary of State of the United States, announcing the ratification of the foregoing article:

WILLIAM H. SEWARD, *Secretary of State of the United States:*

To all to whom these presents may come, Greeting:

Know ye, That whereas, the Congress of the United States, on the first of February last, passed a resolution, which is in the words following, namely: "A resolution submitting to the legislatures of the several States a proposition to amend the Constitution of the United States.

"*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both houses concurring) that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely;" (See Art. XIII., above.)

And *whereas*, it appears from official documents on file in this department that the amendment to the Constitution of the United States proposed as aforesaid, has been ratified by the legislatures of the States of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia; in all twenty-seven States;

And *whereas*, the whole number of States in the United States is thirty-six; and whereas the before specially named States whose legislatures have ratified the said proposed amendment constitute three-fourths of the whole number of States in the United States:

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, by virtue and in pursuance of the second section of the act of Congress, approved the twentieth of April, eighteen hundred and eighteen, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," do hereby certify that the amendment aforesaid has become valid, to all intents and purposes, as a part of the Constitution of the United States.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Department of State to be affixed.

Done at the City of Washington this eighteenth day of December, in the year of our Lord one thousand eight hundred and sixty-five, and of the independence of the United States of America the ninetieth.

[L. S.] WILLIAM H. SEWARD,
Secretary of State.

Does the Thirteenth Amendment fully abolish?

No. Slavery and involuntary servitude are lawful as punishment for crime against a State or the United States. Convicted criminals of any race or complexion are included. Some States have sold and still sell the service and labor of convicts to the highest bidder.

It is plain that if the Thirteenth Amendment is valid, then the two succeeding ones cannot be.

Why so?

The reconstruction legislation of 1866, having no constitutional warrant, was void. To have the Fourteenth and Fifteenth Amendments ratified, it was suddenly discovered that the Southern States were not integral parts of the Union, and would have to be territorialized and readmitted.

Negro suffrage was to be legalized by disfranchising the whites, save a small class called "carpet-baggers." New and pliant legislatures were set up in the military departments, presided over by pro-consuls.

Is the Fourteenth Amendment valid?

No.

ARTICLE FOURTEENTH.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in

Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as any executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States authorized by law, including

debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Were States counted in by Congress?

Yes. Ohio and New Jersey had rescinded their consent to the ratification of the Fourteenth Amendment. As sovereigns they had the right to do so. Their withdrawals were filed in full time in the office of the Secretary of State at Washington. As will hereafter be shown, New York did the same in respect to the Fifteenth Amendment.

Secretary Seward would not certify to the ratification of the Fourteenth Amendment. He spoke of the Southern legislatures that had ratified, as newly constituted and *newly established* bodies *avowing themselves* to be law-making pow-

ers. The following are the remarks and certificates of the Secretary of State of the United States:

WILLIAM H. SEWARD, *Secretary of State of the United States:*

To all to whom these presents may come, Greeting:

Whereas, the Congress of the United States, on or about the sixteenth of June, in the year one thousand eight hundred and sixty-six, passed a resolution, which is in the words and figures following, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States.

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both houses concurring) that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:" (See Art. XIV., above.)

And *whereas*, by the second section of the act of Congress, approved the twentieth of April, one thousand eight hundred and eighteen, entitled "An act to provide for the publication of the

laws of the United States, and for other purposes," it is made the duty of the Secretary of State forthwith to cause any amendment to the Constitution of the United States, which has been adopted according to the provisions of the said Constitution, to be published in the newspapers authorized to promulgate the laws, with his certificate specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States;

And *whereas*, neither the act just quoted from, nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide *doubtful questions* as to the authenticity of the organization of State legislatures, or as to the power of any State legislature to recall a previous act or resolution of ratification of any amendment proposed to the Constitution;

And *whereas*, it appears from official documents on file in this department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the legislatures of the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Min-

nesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, and Iowa;

And *whereas*, it further appears from documents on file in this department that the amendment to the Constitution of the United States, proposed as aforesaid, has also been ratified by newly constituted and *newly established bodies, avowing themselves* to be and acting as the legislatures, respectively, of the States of Arkansas, Florida, North Carolina, Louisiana, South Carolina, and Alabama;

And *whereas*, it further appears from official documents on file in this department that the legislatures of two of the States first above enumerated, to wit, Ohio and New Jersey, have since passed resolutions, respectively, withdrawing the consent of each of said States to the aforesaid amendment;

And *whereas*, it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and, therefore, ineffectual for withdrawing the consent of the said two States, or of either of them, to the aforesaid amendment;

And *whereas*, the whole number of States in the United States is thirty-seven, to wit: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina,

South Carolina, Georgia, Vermont, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Maine, Missouri, Arkansas, Michigan, Florida, Texas, Iowa, Wisconsin, Minnesota, California, Oregon, Kansas, West Virginia, Nevada, and Nebraska;

And *whereas*, the twenty-three States first hereinbefore named, whose legislatures have ratified the said proposed amendment, and the six States next thereafter named, as having ratified the said proposed amendment by newly constituted and established legislative bodies, together constitute three-fourths of the whole number of States in the United States:

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, by virtue and in pursuance of the second section of the act of Congress, approved the twentieth of April, eighteen hundred and eighteen, hereinbefore cited, do hereby certify that, if the resolutions of the legislatures of Ohio and New Jersey, ratifying the aforesaid amendment, are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has be-

come valid, to all intents and purposes, as a part of the Constitution of the United States.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Department of State to be affixed.

Done at the City of Washington this twentieth day of July, in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the United States of America the ninety-third.

[L. S.] WILLIAM H. SEWARD,
Secretary of State.

WILLIAM H. SEWARD, *Secretary of State of the United States:*

To all to whom these presents may come, Greeting:

Whereas, by an act of Congress, passed on the twentieth of April, one thousand eight hundred and eighteen, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," it is declared that, whenever official notice shall have been received at the Department of State that any amendment which heretofore has been and hereafter may be proposed to the Constitution of the United States has been adopted according to the provisions of the Constitution, it shall be the duty of the said

Secretary of State forthwith to cause the said amendment to be published in the newspapers authorized to promulgate the laws, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States;

And *whereas*, the Congress of the United States, on or about the sixteenth day of June, one thousand eight hundred and sixty-six, submitted to the legislatures of the several States a proposed amendment to the Constitution in the following words, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States.

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both houses concurring) that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:" (See Art. XIV., above.)

And *whereas*, the Senate and House of Representatives of the Congress of the United States, on the twenty-first day of July, one thousand eight

hundred and sixty-eight, adopted and transmitted to the Department of State a concurrent resolution, which concurrent resolution is in the words and figures following, to wit:

"IN SENATE OF THE UNITED STATES,
"*July* 21, 1868.

"*Whereas*, the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the Fourteenth Article of Amendment to the Constitution of the United States, duly proposed by two-thirds of each house of the thirty-ninth Congress; therefore,

"*Resolved*, by the Senate (the House of Representatives concurring) that said Fourteenth Article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.

"Attest: GEO. C. GORHAM,
Secretary."

"IN THE HOUSE OF REPRESENTATIVES,
"*July* 21, 1868.

"*Resolved*, that the House of Representatives concur in the foregoing concurrent resolution of the Senate, declaring the ratification of the Fourteenth Article of Amendment of the Constitution of the United States.

"Attest: EDW'D MCPHERSON,
Clerk."

And *whereas*, official notice has been received at the Department of State that the legislatures of the several States next hereinafter named have, at the times respectively herein mentioned, taken the proceedings hereinafter recited upon or in relation to the ratification of the said proposed amendment, called Article Fourteenth, namely: The legislature of Connecticut ratified the amendment June 30, 1866; the legislature of New Hampshire ratified it July 7, 1866; the legislature of Tennessee ratified it July 19, 1866; the legislature of New Jersey ratified it September 11, 1866, and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it; the legislature of Oregon ratified it September 19, 1866; the legislature of Texas rejected it November 1, 1866; the legislature of Vermont ratified it on or previous

to November 9, 1866; the legislature of Georgia rejected it November 13, 1866, and the legislature of the same State ratified it July 21, 1868; the legislature of North Carolina rejected it December 4, 1866, and the legislature of the same State ratified it July 4, 1868; the legislature of South Carolina rejected it December 20, 1866, and the legislature of the same State ratified it July 9, 1868; the legislature of Virginia rejected it January 9, 1867; the legislature of Kentucky rejected it January 10, 1867; the legislature of New York ratified it January 10, 1867; the legislature of Ohio ratified it January 11, 1867, and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it; the legislature of Illinois ratified it January 15, 1867; the legislature of West Virginia ratified it January 16, 1867; the legislature of Kansas ratified it January 18, 1867; the legislature of Maine ratified it January 19, 1867; the legislature of Nevada ratified it January 22, 1867; the legislature of Missouri ratified it on or previous to January 26, 1867; the legislature of Indiana ratified it January 29, 1867; the legislature of Minnesota ratified it February 1, 1867; the legislature of Rhode Island ratified it February 7, 1867; the legislature of Delaware rejected it February 7, 1867; the legislature of

Wisconsin ratified it February 13, 1867; the legislature of Pennsylvania ratified it February 13, 1867; the legislature of Michigan ratified it February 15, 1867; the legislature of Massachusetts ratified it March 20, 1867; the legislature of Maryland rejected it March 23, 1867; the legislature of Nebraska ratified it June 15, 1867; the legislature of Iowa ratified it April 3, 1868; the legislature of Arkansas ratified it April 6, 1868; the legislature of Florida ratified it June 9, 1868; the legislature of Louisiana ratified it July 9, 1868; and the legislature of Alabama ratified it July 13, 1868:

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the aforesaid act and of the aforesaid concurrent resolution of the 21st of July, 1868, and in conformance thereto, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States, and I do hereby certify that the said proposed amendment has been adopted, in the manner hereinbefore mentioned, by the States specified in the said concurrent resolution, namely: The States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West

Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Louisiana, South Carolina, Alabama, and also by the legislature of the State of Georgia; the States thus specified being more than three-fourths of the States of the United States.

And I do further certify that the said amendment has become valid, to all intents and purposes, as a part of the Constitution of the United States.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Department of State to be affixed.

Done at the City of Washington this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the United States of America the ninety-third.

[L. S.] WILLIAM H. SEWARD,
Secretary of State.

What are some of the pernicious results of the amendment?

Secretary Seward, in "doubt and uncertainty," referred the matter to Congress. That body refused to regard the latest legislation of Ohio

and New Jersey. The Congress wanted obedient States, and cared not for the fundamental and time-honored fact that fraud vitiates all acts forever. The counting in of two States was also coercive, and so wholly unconstitutional and void.

This amendment, ratified by white and negro legislatures, is now the last resort of criminals. It was intended to protect negroes in their civil rights. The Supreme Court of the United States decided the Civil Rights act to be unconstitutional. But criminals use the amendment to stay the judgments of State courts while pleading for appeals to United States tribunals. The so-called amendment has become odious to law-abiding people. It is incalculably mischievous. Section third forbids citizens of the United States from fighting for their country unless Congress removes their disability. Political insanity could go no further!

Is there further danger in the amendment?

There is. In the case of O'Neil vs. Vermont, Justices Field, Harlan, and Brewer delivered a minority opinion, which, if held by a majority of the Supreme Court, would change our form of government. This minority opinion made no distinction between a citizen of the United States and a citizen of a State. By the early amend-

ments, and by the Fourteenth so-called Amendment, a citizen of the United States has, according to these justices, privileges and immunities which place him above State action. Carried to its conclusion, the agent of the States would become supreme, and reduce the States to subject provinces and the citizens of States to subjects. It would drag the State criminal law of the first ten amendments into the arena of general government jurisdiction. The State of Mississippi would be compelled to relegate to the dead-letter book her educational qualifications for voters in common with older States that have adopted suffrage reform. In fine, centralization would have its genesis, and conclude with the usual historic apocalyptic evils.

Is the Fifteenth Amendment valid?

No. Secretary Fish counted in New York, although he had officially been notified of the withdrawal of the consent of that State to the ratification of the Fifteenth Amendment. The forcible counting in of a State nullifies the act of promulgation. The Southern white and negro legislatures were unconstitutional, which makes their ratification void. Violent coercive measures in Indiana and some other States also invalidate the amendment.

This amendment is unskilfully drawn. Black is no color. It is simply the absence of color. Mulattoes are colored, because yellow is a color. Suffrage is not a right, but a privilege which can be extended, or modified, or withdrawn, as in the cases of criminals, by the sovereign State. In some of the States, suffrage in certain cases is allowed to be exercised by aliens who have simply declared their intention to become citizens of said States and of the United States, and also by females. A. W. Clason, in "The Fallacy of 1776," says: "War in 1861 was the logical outcome of the fallacy of 1776, and if there were any fallacies of opinion in 1861, they in their fullness of time will bear equally bitter fruit." The Fourteenth and Fifteenth Amendments are fallacies which belong to the latter period in our history.

In a late special paper Murat Halstead argues that both amendments, from Grant to Harrison, have been nullified, and no President or Congress can stop it. He urges the repeal of the Fifteenth Amendment because it is only "a sentiment"!

ARTICLE FIFTEENTH.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

The following is the certificate of the Secretary of the United States, announcing the ratification of the foregoing article:

HAMILTON FISH, *Secretary of State of the United States:*

To all to whom these presents may come, Greeting:

Know ye, that the Congress of the United States, on or about the twenty-seventh day of February, in the year one thousand eight hundred and sixty-nine, passed a resolution in the words and figures following, to wit:

"A resolution proposing an amendment to the Constitution of the United States.

"*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both houses concurring) that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:" (See Art. XV., above.)

And, further, that it appears from official documents on file in this department that the amend-

ment to the Constitution of the United States, proposed as aforesaid, has been ratified by the legislatures of the States of Maine, North Carolina, West Virginia, Massachusetts, Wisconsin, Louisiana, Michigan, South Carolina, Pennsylvania, Arkansas, Connecticut, Florida, Illinois, Indiana, New York, New Hampshire, Nevada, Vermont, Virginia, Alabama, Missouri, Mississippi, Ohio, Iowa, Kansas, Minnesota, Rhode Island, Nebraska, and Texas—in all, twenty-nine States;

And, further, that the States whose legislatures have so ratified the said proposed amendment constitute three-fourths of the whole number of States in the United States;

And, further, that it appears from an official document on file in this department that the legislature of the State of New York has since passed resolutions claiming to withdraw the said ratification of the said amendment, which had been made by the legislature of that State, and of which official notice had been filed in this department;

And, further, that it appears from an official document on file in this department that the legislature of Georgia has by resolution ratified the said proposed amendment:

Now, therefore, be it known that I, Hamilton Fish, Secretary of State of the United States, by virtue and in pursuance of the second section of

the act of Congress, approved the twentieth day of April, in the year eighteen hundred and eighteen, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," do hereby certify that the amendment aforesaid has become valid, to all intents and purposes, as part of the Constitution of the United States.

In testimony whereof, I have hereunto set my hand and caused the seal of the Department of State to be affixed.

Done at the City of Washington this thirtieth day of March, in the year of our Lord one thousand eight hundred and seventy, and of the independence of the United States the ninety-fourth.

[L. S.] HAMILTON FISH.

The Congress of 1868–70 were the first to "count in" States. "Counting in" New Jersey, Ohio, and New York was disfranchisement of sovereign States. It was an act of numerical *force*, and a Cromwellian usurpation. This fractional body of factionists initiated the Electoral Commission of 1877.

Is the title "Secretary of State" proper?

It is not. The title and signature should be Secretary of the United States. The United

States are not a State. Each State has a Secretary of State, presiding over a Department of State. The United States established prior to 1789 a Department of Foreign Affairs. The chief was then known as Secretary for Foreign Affairs. Subsequently his office was renamed. He now outranks all other Cabinet members because his office is the oldest, and he is the first of them to succeed to the Presidency, by a late law, in case of the death, disability, resignation, or removal of both the President and Vice-President. Jefferson was the first "Secretary of State" under the new Constitution.

Will you describe the evolution of constitutional government?

The Stamp Act, which was an internal revenue tax on written instruments used in judicial and commercial proceedings, and upon articles which were necessary to the ordinary transactions of business, such as deeds, indentures, pamphlets, newspapers, advertisements, almanacs, and degrees conferred by schools, and other things, moved Patrick Henry to introduce into the Virginia Assembly a burning protest. This led to a call from Massachusetts for the assembling of a first Congress on the 7th October, 1765, which issued a declaration of rights and grievances.

Nine colonies were represented. This was called the Stamp Act Congress. The act passed by the British Parliament to force the tea of the East India Company on the colonies, assembled the second Congress. There were other "grievances," such as taxing the imports of one colony carried into another.

The Colonists rebelled, and fought inside the British Union. Then came the atrocities of a German contingent of the British army, by which the people of the United Colonies suffered. These acts caused the Declaration of Independence to pass without submitting the measure to the people. It had no constituency. Congress could repeal it at any moment during their session. Thus to the inhumanity of the Waldeckers and Hessians is to be ascribed the transfer of hostilities of the United Colonists to the outside of the British Crown.

Before it was called rebellion; thenceforth it was called a war for independence. In 1778 Great Britain sent, in advance of the treaty of alliance with France, acts of Parliament granting in full a "redress of grievances." Washington and Congress suppressed them. The war had gone too far. Ambition on one hand and justice on the other declared dually for complete independence. Dr. Franklin was the author of the "Perpetual

Union" Articles of Confederation. They went down before the sovereign idea of consent. Dean Swift had given Jefferson and Franklin a great hint. It was this: "Government without the consent of the governed is the very definition of tyranny." Jefferson engrafted this caustic truth upon the Declaration. Franklin, as a member of the "Federal Convention," retreated from "Perpetual Union." Out of the mere commercial convention at Annapolis originated a political movement from which, with the general plan of the Articles of Confederation, sprung the Constitution of 1787. Only Rhode Island and North Carolina clung to the first Constitution, refusing to enter the new Union.

So, then, Tariff or Tax was the father of Colonial Rebellion, Independence the grandchild, and Constitutional Government the great-grandchild. Truly a strange political evolution!

Are there new developing historic chapters?

Yes. It is charged that the French Premier, the Count Vergennes, stimulated the Colonists through the agency of spies and gold. The Baron De Kalb was said to have been one of his reliable agents.

It is charged that ratification of the Constitution was secured in some cases by the undue

influence of the owners of the forty millions public debt of the Confederation, to secure its validity and payment as set forth in Article VI. of the new Constitution. Ambitious motives were ascribed to men whom we are accustomed to regard as unselfish patriots. On the whole, we are led to imagine that history and biography have been cooked with the art of literary Francatellis, and that our ancestors were neither better nor worse than their descendants of this year of grace.

Human nature in the old colonial days, in our young stateshood, and in our nearly full-grown confederation has not essentially altered, nor will it, whether man was evolved from a protoplasm, an ape, or Adam. It still, as in primordial societies, seeks office, loves power, and courts ease and adulation. Our forefathers were simply men, and neither gods nor demigods, nor are their descendants the sons of gods or of demigods. Our late war made cheap great men, and that fact is causing a deeper investigation into preceding history. The mythic hero is passing away with the roseate eulogist, for the hand of Truth is writing history and biography.

Is the Constitution complete?

We have seen that it is amendable, and marked some omissions elsewhere, but such is the consoli-

dating tendencies of the latter-day "strong government" men or nationalists that it were best to let it alone. To this rule there may be two exceptions, viz.: the completion of Section 4 of Article I., so as to prohibit Congressional interference with elections, as hitherto mentioned; and the creation of a common judge in case of internal danger of revolution and separation, also hitherto mentioned. The original authors should have settled the internal improvement and tariff questions. Generalities take the place of specialties. Epigrammatic enumerations give elastical interpretation. Thus the foregoing great questions are relegated to brief clauses relating to the regulation of commerce and the laying of duties on imports. The President should have been allowed to veto any item or items of an appropriation bill. New States without the requisite population have been admitted under the platitudinous words: "New States may be admitted into this Union." "Congress shall have power to establish post-offices and post-roads," are words so vague that Congress and Postmaster-Generals have but little regard for the sacred privacy of correspondence which is an element of free speech, nor of that liberty of the press which is the palladium of a sovereign people.

There is no limitation to departmental creations

under the "general welfare" phrase, and hence we have a Secretary of Agriculture, and a Bureau of Education, which will perhaps in time evolve a Secretary of Education. Without constitutional warrant the agents of the States are made pedagogic, piscatory, entomologic, and herbivorous! Commissioners of bureaux are increasing all for the "general welfare."

So much time was spent by the convention of 1787 in the bitter contest beween the large and small States, that the fatigued members were eager to adjourn and go home. This, together with other conflicting opinions, accounts for the omissions and generalities.

Many deputies had quietly left the convention, discontented with some of its legislation. The signers, headed by General Washington, dined together, and congratulated each other on the work accomplished in little less than five months. The time was too short to lay the foundations so broad and deep as to maintain a superstructure which should defy the centuries of change. The structure is a mixture of Doric, Corinthian, Ionic, and Composite. It ought to have been Doric.

CONCLUDING WORDS.

Such is the Constitution of the United States of America. It is not *jure divino*—only the best

that human ingenuity and compromise could devise. For more than a century it has lived. Happily the war between the States made no structural changes. The principles of the best of the framers, supplemented by the Bill of Rights, still vitalize it.

This parchment has been a model for Mexican, Central American, and South American States, some of whom are named for these United States, the last being Brazil, the Latins thereof giving us a new lesson on progressive statesmanship, for they overturned the throne of the immemorial Braganzas, abolished slavery, separated church and State, established freedom of conscience and of speech, and on the ruins of an empire erected a confederation of States by a peaceful and bloodless revolution.

Free institutions are recreative. Apart from the parchment compact between the States of our Union, there is something in our varied soil and climate which transforms the alien settlers, and which beautifies and ennobles the faces and forms of their offspring. Thus by a process natural and political, the free sovereign and independent citizen is both the result of soil and climate, and of the benign institutions founded by the men of the Revolution.

The hand that pens these concluding words

has written the axiomatic legend that patriotism is reverence for the old and the tried, not for the new and untried. The indisposition of the more thoughtful people of the States to give the United States more power by amending the Constitution is a guarantee, at least in our generation, that paternalism which is empire shall not be tolerated.

The cohesion of force is temporary. Integration is soon followed by disintegration. Fewer laws and more principles will weld together the States and the people in a common bond of consent. In that single word consent lies the vital perpetuity of our States-Union.

Repudiate the amendments to the Constitution which ignorant, ambitious, or designing men in Congress draft every session in the interest of nationalism. Let the Supreme Court of the United States understand that there is no "national government" on this continent, but confederated sovereignties, and bid the judges cease their encroachment on the reserved rights of the States. Demand of Congress a rigid adherence to the Constitution in every act of legislation.

The grand Christ precept, "As ye sow so shall ye reap," is the universal law of moral and political being. Heaven help us to sow well for ourselves and for that posterity to whose hands will

be committed the custody of the lives of the several States and of the United States.

Thus may be postponed for an indefinite age the terrible fate of the Roman Empire when the sceptre fell from the nerveless grasp of Theodosius the Great. The historian tells us that the empire was too large and heavy, and too laden with vices, to be upborne and swayed by one ruler, and, "breaking into two parts, rolled on either side of his coffin," forming the Latin and the Greek empires, which in turn disintegrated and disappeared forever.

APPENDIX.

That the reader may consult the text free from all interpretation and historical remarks of the author, the entire Constitution of the United States is appended. The prime object of this catechism is not to deal with every article of the instrument *seriatim*, but to outline such fundamental constitutional principles as underlie the latest and best experiment in democratic-republican government.

CONSTITUTION OF THE UNITED STATES OF AMERICA.

PREAMBLE.

WE, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

THE LEGISLATIVE DEPARTMENT.

SECTION I.—All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION II.—1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration

shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

SECTION III.—1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers, and also a Presi-

dent *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION IV.—1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.—1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION VI.—1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECTION VII.—1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except

on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him; or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII.—The Congress shall have power—

1. To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States:

2. To borrow money on the credit of the United States:

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

7. To establish post-offices and post-roads:

8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

16. To provide for organizing, arming, and disciplining the

militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress:

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of the Congress, become the seat of government of the United States; and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: —and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SECTION IX.—1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement

and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECTION X.—1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of the Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

THE EXECUTIVE DEPARTMENT.

SECTION I.—1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years; and, together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or

person holding an office of trust or profit under the United States, shall be appointed an elector.

[3. The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner choose a President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.] *

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

* The clause in brackets was annulled by Article XII. under Amendments.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SECTION II.—1. The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION III.—He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION IV.—The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

THE JUDICIAL DEPARTMENT.

SECTION I.—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION II.—1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of

different States; and between a State, or the citizens thereof, and foreign states, citizens, or subjects. *

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have originial jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as Congress may by law have directed. †

SECTION III.—1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

MISCELLANEOUS PROVISIONS.

SECTION I.—Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION II.—1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from

* See Article XI., Amendments. † See Article VI., Amendments.

which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION III.—1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION IV.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the

ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

New Hampshire.
JOHN LANGDON,
NICHOLAS GILMAN.

Massachusetts.
NATHANIEL GORHAM,
RUFUS KING.

Connecticut.
WILLIAM SAMUEL JOHNSON,
ROGER SHERMAN.

New York.
ALEXANDER HAMILTON.

New Jersey.

WILLIAM LIVINGSTON,
DAVID BREARLY,
WILLIAM PATERSON,
JONATHAN DAYTON.

Pennsylvania.

BENJAMIN FRANKLIN,
THOMAS MIFFLIN,
ROBERT MORRIS,
GEORGE CLYMER,
THOMAS FITZSIMONS,
JARED INGERSOLL,
JAMES WILSON,
GOUVERNEUR MORRIS.

Delaware.

GEORGE READ,
GUNNING BEDFORD, JR.,
JOHN DICKINSON,
RICHARD BASSETT,
JACOB BROOM.

Maryland.

JAMES MCHENRY,
DANIEL OF ST. TH. JENIFER,
DANIEL CARROLL.

Virginia.

JOHN BLAIR,
JAMES MADISON, JR.

North Carolina.

WILLIAM BLOUNT,
RICHARD DOBBS SPAIGHT,
HUGH WILLIAMSON.

South Carolina.

JOHN RUTLEDGE,
CHARLES C. PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

Georgia.

WILLIAM FEW,
ABRAHAM BALDWIN.

WILLIAM JACKSON,
Secretary.

Attest:

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

ARTICLE I.—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.—A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.—No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.—The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.—No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.—In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.—In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.—Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.—The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.—The powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.—The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII.—1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a major-

ity of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President. A quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.—SECTION I.—Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION II.—Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.—SECTION I.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION II.—Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION III.—No person shall be a Senator or Representative

in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as any executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.

SECTION IV.—The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION V.—The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.—SECTION I.—The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION II.—The Congress shall have power to enforce this article by appropriate legislation.

The original Constitution is in the Library of the State Department at Washington, together with the resolution of the Convention submitting it to the several States for ratification. The room is fireproof, and the safe is a specially built fireproof receptacle.

These invaluable documents were on exhibition

at the World's Fair at Chicago, and were guarded on their way thither and on their return by State Department officials and a strong guard of soldiers of the United States Army. The Constitution, which was written on five sheets, and the resolution, on one sheet, have been injured by handling, and the State Department will likely never again allow them to be taken from the safe where they are deposited.

The resolution transmitting the Constitution to the States for ratification commences: "IN CONVENTION, Monday, September 17, 1787. PRESENT, the States of New Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia."

The foregoing is another and final declaration that States, not men, were the framers of the Constitution. New York was not present, as heretofore shown. Hamilton was allowed to act for New York, for politic reasons. He had no vote.

The Constitution as published by the author is correct, the errors that have crept into it by numerous reprints having been carefully eliminated.

As a lawyer the author has interpreted essen-

tial portions of the instrument, and as a journalist set forth these interpretations faithfully and fearlessly for many years in the North and the South. It is believed that the fundamental principles thus announced are epitomized truths, and will, as in the past, fructify in the future.